

1   **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**  
2   **TENTS.**

3       (a) SHORT TITLE.—This Act may be cited as the “Eco-  
4    nomic Growth and Tax Relief Reconciliation Act of 2001”.

5       (b) AMENDMENT OF 1986 CODE.—Except as otherwise ex-  
6    pressly provided, whenever in this Act an amendment or repeal  
7    is expressed in terms of an amendment to, or repeal of, a sec-  
8    tion or other provision, the reference shall be considered to be  
9    made to a section or other provision of the Internal Revenue  
10   Code of 1986.

11      (c) TABLE OF CONTENTS.—The table of contents of this  
12   Act is as follows:

Sec. 1. Short title; references; table of contents.

**TITLE I—INDIVIDUAL INCOME TAX RATE REDUCTIONS**

Sec. 101. Reduction in income tax rates for individuals.

Sec. 102. Repeal of phaseout of personal exemptions.

Sec. 103. Phaseout of overall limitation on itemized deductions.

**TITLE II—TAX BENEFITS RELATING TO CHILDREN**

Sec. 201. Modifications to child tax credit.

Sec. 202. Expansion of adoption credit and adoption assistance programs.

Sec. 203. Refunds disregarded in the administration of Federal programs  
and federally assisted programs.

Sec. 204. Dependent care credit.

Sec. 205. Allowance of credit for employer expenses for child care assist-  
ance.

**TITLE III—MARRIAGE PENALTY RELIEF**

Sec. 301. Elimination of marriage penalty in standard deduction.

Sec. 302. Phaseout of marriage penalty in 15-percent bracket.

Sec. 303. Marriage penalty relief for earned income credit; earned income  
to include only amounts includible in gross income; simplification  
of earned income credit.

**TITLE IV—AFFORDABLE EDUCATION PROVISIONS**

**Subtitle A—Education Savings Incentives**

Sec. 401. Modifications to education individual retirement accounts.

Sec. 402. Modifications to qualified tuition programs.

**Subtitle B—Educational Assistance**

Sec. 411. Extension of exclusion for employer-provided educational assist-  
ance.

Sec. 412. Elimination of 60-month limit and increase in income limitation  
on student loan interest deduction.

Sec. 413. Exclusion of certain amounts received under the National Health  
Service Corps Scholarship Program and the F. Edward Hebert  
Armed Forces Health Professions Scholarship and Financial As-  
sistance Program.



Subtitle C—Liberalization of Tax-Exempt Financing Rules for Public  
School Construction

- Sec. 421. Additional increase in arbitrage rebate exception for governmental bonds used to finance educational facilities.  
Sec. 422. Treatment of qualified public educational facility bonds as exempt facility bonds.

Subtitle D—Other Provisions

- Sec. 431. Deduction for higher education expenses.

TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING  
TRANSFER TAX PROVISIONS

Subtitle A—Repeal of Estate and Generation-Skipping Transfer Taxes

- Sec. 501. Repeal of estate and generation-skipping transfer taxes.

Subtitle B—Reductions of Estate and Gift Tax Rates

- Sec. 511. Additional reductions of estate and gift tax rates.

Subtitle C—Increase in Exemption Amounts

- Sec. 521. Increase in exemption equivalent of unified credit, lifetime gifts exemption, and GST exemption amounts.

Subtitle D—Credit for State Death Taxes

- Sec. 531. Reduction of credit for State death taxes.  
Sec. 532. Credit for State death taxes replaced with deduction for such taxes.

Subtitle E—Carryover Basis at Death; Other Changes Taking Effect With  
Repeal

- Sec. 541. Termination of step-up in basis at death.  
Sec. 542. Treatment of property acquired from a decedent dying after December 31, 2009.

Subtitle F—Conservation Easements

- Sec. 551. Expansion of estate tax rule for conservation easements.

Subtitle G—Modifications of Generation-Skipping Transfer Tax

- Sec. 561. Deemed allocation of GST exemption to lifetime transfers to trusts; retroactive allocations.  
Sec. 562. Severing of trusts.  
Sec. 563. Modification of certain valuation rules.  
Sec. 564. Relief provisions.

Subtitle H—Extension of Time for Payment of Estate Tax

- Sec. 571. Increase in number of allowable partners and shareholders in closely held businesses.  
Sec. 572. Expansion of availability of installment payment for estates with interests qualifying lending and finance businesses.  
Sec. 572. Clarification of availability of installment payment.

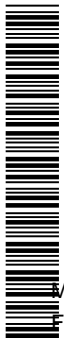
Subtitle I—Other Provisions

- Sec. 581. Waiver of statute of limitation for taxes on certain farm valuations.

TITLE VI—PENSION AND INDIVIDUAL RETIREMENT  
ARRANGEMENT PROVISIONS

Subtitle A—Individual Retirement Accounts

- Sec. 601. Modification of IRA contribution limits.  
Sec. 602. Deemed IRAs under employer plans.



## Subtitle B—Expanding Coverage

- Sec. 611. Increase in benefit and contribution limits.
- Sec. 612. Plan loans for subchapter S owners, partners, and sole proprietors.
- Sec. 613. Modification of top-heavy rules.
- Sec. 614. Elective deferrals not taken into account for purposes of deduction limits.
- Sec. 615. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.
- Sec. 616. Deduction limits.
- Sec. 617. Option to treat elective deferrals as after-tax Roth contributions.
- Sec. 618. Nonrefundable credit to certain individuals for elective deferrals and IRA contributions.
- Sec. 619. Credit for pension plan startup costs of small employers.
- Sec. 620. Elimination of user fee for requests to IRS regarding pension plans.
- Sec. 621. Treatment of nonresident aliens engaged in international transportation services.

## Subtitle C—Enhancing Fairness for Women

- Sec. 631. Catch-up contributions for individuals age 50 or over.
- Sec. 632. Equitable treatment for contributions of employees to defined contribution plans.
- Sec. 633. Faster vesting of certain employer matching contributions.
- Sec. 634. Modification to minimum distribution rules.
- Sec. 635. Clarification of tax treatment of division of section 457 plan benefits upon divorce.
- Sec. 636. Provisions relating to hardship distributions.
- Sec. 637. Waiver of tax on nondeductible contributions for domestic or similar workers.

## Subtitle D—Increasing Portability for Participants

- Sec. 641. Rollovers allowed among various types of plans.
- Sec. 642. Rollovers of IRAs into workplace retirement plans.
- Sec. 643. Rollovers of after-tax contributions.
- Sec. 644. Hardship exception to 60-day rule.
- Sec. 645. Treatment of forms of distribution.
- Sec. 646. Rationalization of restrictions on distributions.
- Sec. 647. Purchase of service credit in governmental defined benefit plans.
- Sec. 648. Employers may disregard rollovers for purposes of cash-out amounts.
- Sec. 649. Minimum distribution and inclusion requirements for section 457 plans.

## Subtitle E—Strengthening Pension Security and Enforcement

## PART I—GENERAL PROVISIONS

- Sec. 651. Repeal of 160 percent of current liability funding limit.
- Sec. 652. Maximum contribution deduction rules modified and applied to all defined benefit plans.
- Sec. 653. Excise tax relief for sound pension funding.
- Sec. 654. Treatment of multiemployer plans under section 415.
- Sec. 655. Protection of investment of employee contributions to 401(k) plans.
- Sec. 656. Prohibited allocations of stock in S corporation ESOP.



Sec. 657. Automatic rollovers of certain mandatory distributions.

Sec. 658. Clarification of treatment of contributions to multiemployer plan.

PART II—TREATMENT OF PLAN AMENDMENTS REDUCING FUTURE  
BENEFIT ACCRUALS

Sec. 659. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.

Subtitle F—Reducing Regulatory Burdens

Sec. 661. Modification of timing of plan valuations.

Sec. 662. ESOP dividends may be reinvested without loss of dividend deduction.

Sec. 663. Repeal of transition rule relating to certain highly compensated employees.

Sec. 664. Employees of tax-exempt entities.

Sec. 665. Clarification of treatment of employer-provided retirement advice.

Sec. 666. Repeal of the multiple use test.

Subtitle G—Miscellaneous Provisions

Sec. 671. Tax treatment and information requirements of Alaska Native Settlement Trusts.

TITLE VII—ALTERNATIVE MINIMUM TAX

Sec. 701. Increase in alternative minimum tax exemption.

TITLE VIII—OTHER PROVISIONS

Sec. 801. Time for payment of corporate estimated taxes.

Sec. 802. Expansion of authority to postpone certain tax-related deadlines by reason of Presidentially declared disaster.

Sec. 803. No Federal income tax on restitution received by victims of the Nazi regime or their heirs or estates.

TITLE IX—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

Sec. 901. Sunset of provisions of Act.

1     **TITLE I—INDIVIDUAL INCOME TAX**  
2                     **RATE REDUCTIONS**

3     **SEC. 101. REDUCTION IN INCOME TAX RATES FOR INDIVIDUALS.**  
4

5             (a) IN GENERAL.—Section 1 (relating to tax imposed) is  
6     amended by adding at the end the following new subsection:

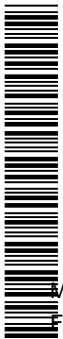
7             “(i) RATE REDUCTIONS AFTER 2000.—

8                 “(1) 10-PERCENT RATE BRACKET.—

9                 “(A) IN GENERAL.—In the case of taxable years  
10     beginning after December 31, 2000—

11                 “(i) the rate of tax under subsections (a), (b),  
12                 (c), and (d) on taxable income not over the initial  
13                 bracket amount shall be 10 percent, and

14                 “(ii) the 15 percent rate of tax shall apply  
15                 only to taxable income over the initial bracket



1 amount but not over the maximum dollar amount  
2 for the 15-percent rate bracket.

3 “(B) INITIAL BRACKET AMOUNT.—For purposes  
4 of this paragraph, the initial bracket amount is—

5 “(i) \$14,000 (\$12,000 in the case of taxable  
6 years beginning before January 1, 2008) in the  
7 case of subsection (a),

8 “(ii) \$10,000 in the case of subsection (b),  
9 and

10 “(iii)  $\frac{1}{2}$  the amount applicable under clause  
11 (i) (after adjustment, if any, under subparagraph  
12 (C)) in the case of subsections (c) and (d).

13 “(C) INFLATION ADJUSTMENT.—In prescribing  
14 the tables under subsection (f) which apply with respect  
15 to taxable years beginning in calendar years after  
16 2000—

17 “(i) the Secretary shall make no adjustment to  
18 the initial bracket amount for any taxable year be-  
19 ginning before January 1, 2009,

20 “(ii) the cost-of-living adjustment used in  
21 making adjustments to the initial bracket amount  
22 for any taxable year beginning after December 31,  
23 2008, shall be determined under subsection (f)(3)  
24 by substituting ‘2007’ for ‘1992’ in subparagraph  
25 (B) thereof, and

26 “(iii) such adjustment shall not apply to the  
27 amount referred to in subparagraph (B)(iii).

28 If any amount after adjustment under the preceding  
29 sentence is not a multiple of \$50, such amount shall be  
30 rounded to the next lowest multiple of \$50.

31 “(D) COORDINATION WITH ACCELERATION OF 10  
32 PERCENT RATE BRACKET BENEFIT FOR 2001.—This  
33 paragraph shall not apply to any taxable year to which  
34 section 6428 applies.

35 “(2) REDUCTIONS IN RATES AFTER JUNE 30, 2001.—  
36 In the case of taxable years beginning in a calendar year



1 after 2000, the corresponding percentage specified for such  
 2 calendar year in the following table shall be substituted for  
 3 the otherwise applicable tax rate in the tables under sub-  
 4 sections (a), (b), (c), (d), and (e).

“In the case of taxable years beginning during calendar year:	The corresponding percent- ages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001 .....	27.5%	30.5%	35.5%	39.1%
2002 and 2003 .....	27.0%	30.0%	35.0%	38.6%
2004 and 2005 .....	26.0%	29.0%	34.0%	37.6%
2006 and thereafter .....	25.0%	28.0%	33.0%	35.0%

5 “(3) ADJUSTMENT OF TABLES.—The Secretary shall  
 6 adjust the tables prescribed under subsection (f) to carry  
 7 out this subsection.”.

8 (b) ACCELERATION OF 10 PERCENT RATE BRACKET BEN-  
 9 EFIT FOR 2001.—

10 (1) IN GENERAL.—Subchapter B of chapter 65 (relat-  
 11 ing to abatements, credits, and refunds) is amended by  
 12 adding at the end the following new section:

13 **“SEC. 6428. ACCELERATION OF 10 PERCENT INCOME TAX**  
 14 **RATE BRACKET BENEFIT FOR 2001.**

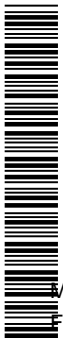
15 “(a) IN GENERAL.—In the case of an eligible individual,  
 16 there shall be allowed as a credit against the tax imposed by  
 17 chapter 1 for the taxpayer’s first taxable year beginning in  
 18 2001 an amount equal to 5 percent of so much of the tax-  
 19 payer’s taxable income as does not exceed the initial bracket  
 20 amount (as defined in section 1(i)(1)(B)).

21 “(b) LIMITATION BASED ON AMOUNT OF TAX.—The cred-  
 22 it allowed by subsection (a) shall not exceed the excess (if any)  
 23 of—

24 “(1) the sum of the regular tax liability (as defined in  
 25 section 26(b)) plus the tax imposed by section 55, over

26 “(2) the sum of the credits allowable under part IV of  
 27 subchapter A of chapter 1 (other than the credits allowable  
 28 under subpart C thereof, relating to refundable credits).

29 “(c) ELIGIBLE INDIVIDUAL.—For purposes of this section,  
 30 the term ‘eligible individual’ means any individual other than—



1           “(1) any estate or trust,  
2           “(2) any nonresident alien individual, and  
3           “(3) any individual with respect to whom a deduction  
4 under section 151 is allowable to another taxpayer for a  
5 taxable year beginning in the calendar year in which the in-  
6 dividual’s taxable year begins.

7           “(d) SPECIAL RULES.—

8           “(1) COORDINATION WITH ADVANCE REFUNDS OF  
9 CREDIT.—

10           “(A) IN GENERAL.—The amount of credit which  
11 would (but for this paragraph) be allowable under this  
12 section shall be reduced (but not below zero) by the ag-  
13 gregate refunds and credits made or allowed to the tax-  
14 payer under subsection (e). Any failure to so reduce the  
15 credit shall be treated as arising out of a mathematical  
16 or clerical error and assessed according to section  
17 6213(b)(1).

18           “(B) JOINT RETURNS.—In the case of a refund or  
19 credit made or allowed under subsection (e) with re-  
20 spect to a joint return, half of such refund or credit  
21 shall be treated as having been made or allowed to each  
22 individual filing such return.

23           “(2) COORDINATION WITH ESTIMATED TAX.—The  
24 credit under this section shall be treated for purposes of  
25 section 6654(f) in the same manner as a credit under sub-  
26 part A of part IV of subchapter A of chapter 1.

27           “(e) ADVANCE REFUNDS OF CREDIT BASED ON PRIOR  
28 YEAR DATA.—

29           “(1) IN GENERAL.—Each individual who was an eligi-  
30 ble individual for such individual’s first taxable year begin-  
31 ning in 2000 shall be treated as having made a payment  
32 against the tax imposed by chapter 1 for such first taxable  
33 year in an amount equal to the advance refund amount for  
34 such taxable year.

35           “(2) ADVANCE REFUND AMOUNT.—For purposes of  
36 paragraph (1), the advance refund amount is the amount



1 that would have been allowed as a credit under this section  
2 for such first taxable year if this section (other than sub-  
3 section (d) and this subsection) had applied to such taxable  
4 year.

5 “(3) TIMING OF PAYMENTS.—In the case of any over-  
6 payment attributable to this subsection, the Secretary shall,  
7 subject to the provisions of this title, refund or credit such  
8 overpayment as rapidly as possible and, to the extent prac-  
9 ticable, before October 1, 2001. No refund or credit shall  
10 be made or allowed under this subsection after December  
11 31, 2001.

12 “(4) NO INTEREST.—No interest shall be allowed on  
13 any overpayment attributable to this subsection.”.

14 (2) CLERICAL AMENDMENT.—The table of sections for  
15 subchapter B of chapter 65 is amended by adding at the  
16 end the following new item:

“Sec. 6428. Acceleration of 10 percent income tax rate brack-  
et benefit for 2001.”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) Subparagraph (B) of section 1(g)(7) is amended  
19 by striking “15 percent” in clause (ii)(II) and inserting  
20 “10 percent.”.

21 (2) Section 1(h) is amended—

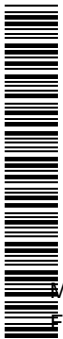
22 (A) by striking “28 percent” both places it ap-  
23 pears in paragraphs (1)(A)(ii)(I) and (1)(B)(i) and in-  
24 serting “25 percent”, and

25 (B) by striking paragraph (13).

26 (3) Section 15 is amended by adding at the end the  
27 following new subsection:

28 “(f) RATE REDUCTIONS ENACTED BY ECONOMIC GROWTH  
29 AND TAX RELIEF RECONCILIATION ACT OF 2001.—This sec-  
30 tion shall not apply to any change in rates under subsection (i)  
31 of section 1 (relating to rate reductions after 2000).”.

32 (4) Section 531 is amended by striking “equal to” and  
33 all that follows and inserting “equal to the product of the





1 highest rate of tax under section 1(c) and the accumulated  
2 taxable income.”.

3 (5) Section 541 is amended by striking “equal to” and  
4 all that follows and inserting “equal to the product of the  
5 highest rate of tax under section 1(c) and the undistributed  
6 personal holding company income.”.

7 (6) Section 3402(p)(1)(B) is amended by striking “7,  
8 15, 28, or 31 percent” and inserting “7 percent, any per-  
9 centage applicable to any of the 3 lowest income brackets  
10 in the table under section 1(c),”.

11 (7) Section 3402(p)(2) is amended by striking “15  
12 percent” and inserting “10 percent”.

13 (8) Section 3402(q)(1) is amended by striking “equal  
14 to 28 percent of such payment” and inserting “equal to the  
15 product of the third lowest rate of tax applicable under sec-  
16 tion 1(c) and such payment”.

17 (9) Section 3402(r)(3) is amended by striking “31  
18 percent” and inserting “the fourth lowest rate of tax appli-  
19 cable under section 1(c)”.

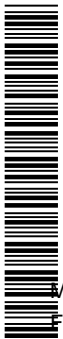
20 (10) Section 3406(a)(1) is amended by striking “equal  
21 to 31 percent of such payment” and inserting “equal to the  
22 product of the fourth lowest rate of tax applicable under  
23 section 1(c) and such payment”.

24 (11) Section 13273 of the Revenue Reconciliation Act  
25 of 1993 is amended by striking “28 percent” and inserting  
26 “the third lowest rate of tax applicable under section 1(c)  
27 of the Internal Revenue Code of 1986”.

28 (d) EFFECTIVE DATES.—

29 (1) IN GENERAL.—Except as provided in paragraph  
30 (2), the amendments made by this section shall apply to  
31 taxable years beginning after December 31, 2000.

32 (2) AMENDMENTS TO WITHHOLDING PROVISIONS.—  
33 The amendments made by paragraphs (6), (7), (8), (9),  
34 (10), and (11) of subsection (c) shall apply to amounts  
35 paid after the 60th day after the date of the enactment of  
36 this Act. References to income brackets and rates of tax in



1 such paragraphs shall be applied without regard to section  
2 1(i)(1)(D) of the Internal Revenue Code of 1986.

3 **SEC. 102. REPEAL OF PHASEOUT OF PERSONAL EXEMP-**  
4 **TIONS.**

5 (a) IN GENERAL.—Paragraph (3) of section 151(d) (relat-  
6 ing to exemption amount) is amended by adding at the end the  
7 following new subparagraphs:

8 “(E) REDUCTION OF PHASEOUT.—

9 “(i) IN GENERAL.—In the case of taxable  
10 years beginning after December 31, 2005, and be-  
11 fore January 1, 2010, the reduction under subpara-  
12 graph (A) shall be equal to the applicable fraction  
13 of the amount which would (but for this subpara-  
14 graph) be the amount of such reduction.

15 “(ii) APPLICABLE FRACTION.—For purposes  
16 of clause (i), the applicable fraction shall be deter-  
17 mined in accordance with the following table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable fraction is—</b>
2006 and 2007 .....	$\frac{2}{3}$
2008 and 2009 .....	$\frac{1}{3}$ .

18 “(F) TERMINATION.—This paragraph shall not  
19 apply to any taxable year beginning after December 31,  
20 2009.”.

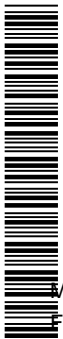
21 (b) EFFECTIVE DATE.—The amendment made by this sec-  
22 tion shall apply to taxable years beginning after December 31,  
23 2005.

24 **SEC. 103. PHASEOUT OF OVERALL LIMITATION ON**  
25 **ITEMIZED DEDUCTIONS.**

26 (a) IN GENERAL.—Section 68 is amended by adding at  
27 the end the following new subsections:

28 “(f) PHASEOUT OF LIMITATION.—

29 “(1) IN GENERAL.—In the case of taxable years begin-  
30 ning after December 31, 2005, and before January 1,  
31 2010, the reduction under subsection (a) shall be equal to  
32 the applicable fraction of the amount which would (but for  
33 this subsection) be the amount of such reduction.



1           “(2) APPLICABLE FRACTION.—For purposes of para-  
 2 graph (1), the applicable fraction shall be determined in ac-  
 3 cordance with the following table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable fraction is—</b>
2006 and 2007 .....	$\frac{2}{3}$
2008 and 2009 .....	$\frac{1}{3}$ .

4           “(g) TERMINATION.—This section shall not apply to any  
 5 taxable year beginning after December 31, 2009.”.

6           (b) EFFECTIVE DATE.—The amendment made by this sec-  
 7 tion shall apply to taxable years beginning after December 31,  
 8 2005.

## 9           **TITLE II—TAX BENEFITS** 10           **RELATING TO CHILDREN**

### 11           **SEC. 201. MODIFICATIONS TO CHILD TAX CREDIT.**

12           (a) INCREASE IN PER CHILD AMOUNT.—Subsection (a) of  
 13 section 24 (relating to child tax credit) is amended to read as  
 14 follows:

15           “(a) ALLOWANCE OF CREDIT.—

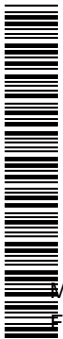
16           “(1) IN GENERAL.—There shall be allowed as a credit  
 17 against the tax imposed by this chapter for the taxable year  
 18 with respect to each qualifying child of the taxpayer an  
 19 amount equal to the per child amount.

20           “(2) PER CHILD AMOUNT.—For purposes of para-  
 21 graph (1), the per child amount shall be determined as fol-  
 22 lows:

<b>“In the case of any taxable year beginning in—</b>	<b>The per child amount is—</b>
2001, 2002, 2003, or 2004 .....	\$ 600
2005, 2006, 2007, or 2008 .....	700
2009 .....	800
2010 or thereafter .....	1,000.”.

23           (b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM  
 24 TAX.—

25           (1) IN GENERAL.—Subsection (b) of section 24 (relat-  
 26 ing to child tax credit) is amended by adding at the end  
 27 the following new paragraph:



1 “(3) LIMITATION BASED ON AMOUNT OF TAX.—The  
2 credit allowed under subsection (a) for any taxable year  
3 shall not exceed the excess of—

4 “(A) the sum of the regular tax liability (as de-  
5 fined in section 26(b)) plus the tax imposed by section  
6 55, over

7 “(B) the sum of the credits allowable under this  
8 subpart (other than this section) and section 27 for the  
9 taxable year.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) The heading for section 24(b) is amended to  
12 read as follows: “LIMITATIONS.—”.

13 (B) The heading for section 24(b)(1) is amended  
14 to read as follows: “LIMITATION BASED ON ADJUSTED  
15 GROSS INCOME.—”.

16 (C) Section 24(d), as amended by subsection (c),  
17 is amended—

18 (i) by striking “section 26(a)” each place it  
19 appears and inserting “subsection (b)(3)”, and

20 (ii) in paragraph (1)(B) by striking “aggre-  
21 gate amount of credits allowed by this subpart”  
22 and inserting “amount of credit allowed by this  
23 section”.

24 (D) Paragraph (1) of section 26(a) is amended by  
25 inserting “(other than section 24)” after “this sub-  
26 part”.

27 (E) Subsection (c) of section 23 is amended by  
28 striking “and section 1400C” and inserting “and sec-  
29 tions 24 and 1400C”.

30 (F) Subparagraph (C) of section 25(e)(1) is  
31 amended by inserting “, 24,” after “sections 23”.

32 (G) Section 904(h) is amended by inserting  
33 “(other than section 24)” after “chapter”.

34 (H) Subsection (d) of section 1400C is amended  
35 by inserting “and section 24” after “this section”.

36 (c) REFUNDABLE CHILD CREDIT.—



1 (1) IN GENERAL.—So much of section 24(d) (relating  
2 to additional credit for families with 3 or more children) as  
3 precedes paragraph (2) is amended to read as follows:

4 “(d) PORTION OF CREDIT REFUNDABLE.—

5 “(1) IN GENERAL.—The aggregate credits allowed to  
6 a taxpayer under subpart C shall be increased by the lesser  
7 of—

8 “(A) the credit which would be allowed under this  
9 section without regard to this subsection and the limi-  
10 tation under section 26(a), or

11 “(B) the amount by which the amount of credit al-  
12 lowed by this section (determined without regard to  
13 this subsection) would increase if the limitation im-  
14 posed by section 26(a) were increased by the greater  
15 of—

16 “(i) 15 percent (10 percent in the case of tax-  
17 able years beginning before January 1, 2005) of so  
18 much of the taxpayer’s earned income (within the  
19 meaning of section 32) which is taken into account  
20 in computing taxable income for the taxable year as  
21 exceeds \$10,000, or

22 “(ii) in the case of a taxpayer with 3 or more  
23 qualifying children, the excess (if any) of—

24 “(I) the taxpayer’s social security taxes for  
25 the taxable year, over

26 “(II) the credit allowed under section 32  
27 for the taxable year.

28 The amount of the credit allowed under this subsection  
29 shall not be treated as a credit allowed under this subpart  
30 and shall reduce the amount of credit otherwise allowable  
31 under subsection (a) without regard to section 26(a).”.

32 (2) INFLATION ADJUSTMENT.—Subsection (d) of sec-  
33 tion 24 is amended by adding at the end the following new  
34 paragraph:

35 “(4) INFLATION ADJUSTMENT.—In the case of any  
36 taxable year beginning in a calendar year after 2001, the



1       \$10,000 amount contained in paragraph (1)(B) shall be in-  
2       creased by an amount equal to—

3               “(A) such dollar amount, multiplied by

4               “(B) the cost-of-living adjustment determined  
5       under section 1(f)(3) for the calendar year in which the  
6       taxable year begins, determined by substituting ‘cal-  
7       endar year 2000’ for ‘calendar year 1992’ in subpara-  
8       graph (B) thereof.

9       Any increase determined under the preceding sentence shall  
10      be rounded to the nearest multiple of \$50.”

11       (3) CONFORMING AMENDMENT.—Section 32 is amend-  
12      ed by striking subsection (n).

13       (d) ELIMINATION OF REDUCTION OF CREDIT TO TAX-  
14      PAYER SUBJECT TO ALTERNATIVE MINIMUM TAX PROVI-  
15      SION.—Section 24(d) is amended—

16              (1) by striking paragraph (2), and

17              (2) by redesignating paragraphs (3) and (4) as para-  
18      graphs (2) and (3), respectively.

19       (e) EFFECTIVE DATES.—

20              (1) IN GENERAL.—Except as provided in paragraph  
21      (2), the amendments made by this section shall apply to  
22      taxable years beginning after December 31, 2000.

23              (2) SUBSECTION (b).—The amendments made by sub-  
24      section (b) shall apply to taxable years beginning after De-  
25      cember 31, 2001.

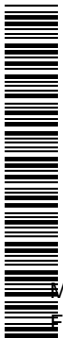
26      **SEC. 202. EXPANSION OF ADOPTION CREDIT AND ADOP-**  
27      **TION ASSISTANCE PROGRAMS.**

28       (a) IN GENERAL.—

29              (1) ADOPTION CREDIT.—Section 23(a)(1) (relating to  
30      allowance of credit) is amended to read as follows:

31              “(1) IN GENERAL.—In the case of an individual, there  
32      shall be allowed as a credit against the tax imposed by this  
33      chapter—

34              “(A) in the case of an adoption of a child other  
35      than a child with special needs, the amount of the



1 qualified adoption expenses paid or incurred by the tax-  
2 payer, and

3 “(B) in the case of an adoption of a child with  
4 special needs, \$10,000.”.

5 (2) ADOPTION ASSISTANCE PROGRAMS.—Section  
6 137(a) (relating to adoption assistance programs) is  
7 amended to read as follows:

8 “(a) IN GENERAL.—Gross income of an employee does not  
9 include amounts paid or expenses incurred by the employer for  
10 adoption expenses in connection with the adoption of a child by  
11 an employee if such amounts are furnished pursuant to an  
12 adoption assistance program. The amount of the exclusion shall  
13 be—

14 “(1) in the case of an adoption of a child other than  
15 a child with special needs, the amount of the qualified  
16 adoption expenses paid or incurred by the taxpayer, and

17 “(2) in the case of an adoption of a child with special  
18 needs, \$10,000.”.

19 (b) DOLLAR LIMITATIONS.—

20 (1) DOLLAR AMOUNT OF ALLOWED EXPENSES.—

21 (A) ADOPTION EXPENSES.—Section 23(b)(1) (re-  
22 lating to allowance of credit) is amended—

23 (i) by striking “\$5,000” and inserting  
24 “\$10,000”,

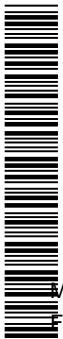
25 (ii) by striking “(\$6,000, in the case of a child  
26 with special needs)”, and

27 (iii) by striking “subsection (a)” and inserting  
28 “subsection (a)(1)(A)”.

29 (B) ADOPTION ASSISTANCE PROGRAMS.—Section  
30 137(b)(1) (relating to dollar limitations for adoption  
31 assistance programs) is amended—

32 (i) by striking “\$5,000” and inserting  
33 “\$10,000”, and

34 (ii) by striking “(\$6,000, in the case of a child  
35 with special needs)”, and



1 (iii) by striking “subsection (a)” and inserting  
2 “subsection (a)(1)”.

3 (2) PHASE-OUT LIMITATION.—

4 (A) ADOPTION EXPENSES.—Clause (i) of section  
5 23(b)(2)(A) (relating to income limitation) is amended  
6 by striking “\$75,000” and inserting “\$150,000”.

7 (B) ADOPTION ASSISTANCE PROGRAMS.—Section  
8 137(b)(2)(A) (relating to income limitation) is amended  
9 by striking “\$75,000” and inserting “\$150,000”.

10 (c) YEAR CREDIT ALLOWED.—Section 23(a)(2) (relating  
11 to year credit allowed) is amended by adding at the end the  
12 following new flush sentence:

13 “In the case of the adoption of a child with special needs,  
14 the credit allowed under paragraph (1) shall be allowed for  
15 the taxable year in which the adoption becomes final.”.

16 (d) REPEAL OF TERMINATIONS.—

17 (1) CHILDREN WITHOUT SPECIAL NEEDS.—Paragraph  
18 (2) of section 23(d) (relating to definition of eligible child)  
19 is amended to read as follows:

20 “(2) ELIGIBLE CHILD.—The term ‘eligible child’  
21 means any individual who—

22 “(A) has not attained age 18, or

23 “(B) is physically or mentally incapable of caring  
24 for himself.”.

25 (2) ADOPTION ASSISTANCE PROGRAMS.—Section 137  
26 (relating to adoption assistance programs) is amended by  
27 striking subsection (f).

28 (e) ADJUSTMENT OF DOLLAR AND INCOME LIMITATIONS  
29 FOR INFLATION.—

30 (1) ADOPTION CREDIT.—Section 23 (relating to adop-  
31 tion expenses) is amended by redesignating subsection (h)  
32 as subsection (i) and by inserting after subsection (g) the  
33 following new subsection:

34 “(h) ADJUSTMENTS FOR INFLATION.—In the case of a  
35 taxable year beginning after December 31, 2002, each of the  
36 dollar amounts in subsection (a)(1)(B) and paragraphs (1) and





1 (2)(A)(i) of subsection (b) shall be increased by an amount  
2 equal to—

3 “(1) such dollar amount, multiplied by

4 “(2) the cost-of-living adjustment determined under  
5 section 1(f)(3) for the calendar year in which the taxable  
6 year begins, determined by substituting ‘calendar year  
7 2001’ for ‘calendar year 1992’ in subparagraph (B) there-  
8 of.”.

9 (2) ADOPTION ASSISTANCE PROGRAMS.—Section 137  
10 (relating to adoption assistance programs), as amended by  
11 subsection (d), is amended by adding at the end the fol-  
12 lowing new subsection:

13 “(f) ADJUSTMENTS FOR INFLATION.—In the case of a  
14 taxable year beginning after December 31, 2002, each of the  
15 dollar amounts in subsection (a)(2) and paragraphs (1) and  
16 (2)(A) of subsection (b) shall be increased by an amount equal  
17 to—

18 “(1) such dollar amount, multiplied by

19 “(2) the cost-of-living adjustment determined under  
20 section 1(f)(3) for the calendar year in which the taxable  
21 year begins, determined by substituting ‘calendar year  
22 2001’ for ‘calendar year 1992’ in subparagraph (B) there-  
23 of.”.

24 (f) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM  
25 TAX.—

26 (1) IN GENERAL.—Subsection (b) of section 23 is  
27 amended by adding at the end the following new para-  
28 graph:

29 “(4) LIMITATION BASED ON AMOUNT OF TAX.—The  
30 credit allowed under subsection (a) for any taxable year  
31 shall not exceed the excess of—

32 “(A) the sum of the regular tax liability (as de-  
33 fined in section 26(b)) plus the tax imposed by section  
34 55, over



1 “(B) the sum of the credits allowable under this  
2 subpart (other than this section) and section 27 for the  
3 taxable year.”

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 23(c), as amended by section 201(b),  
6 is amended—

7 (i) by striking “section 26(a)” and inserting  
8 “subsection (b)(4)”, and

9 (ii) by striking “reduced by the sum of the  
10 credits allowable under this subpart (other than  
11 this section and sections 24 and 1400C)”.

12 (B) Section 24(b)(3)(B), as added by section  
13 201(b), is amended by striking “this section” and in-  
14 serting “this section and section 23”.

15 (C) Sections 26(a)(1), 904(h), and 1400C(d), as  
16 amended by section 201(b), are each amended by strik-  
17 ing “section 24” and inserting “sections 23 and 24”.

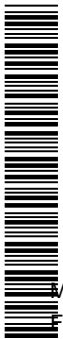
18 (g) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as provided in paragraph  
20 (2), the amendments made by this section shall apply to  
21 taxable years beginning after December 31, 2001.

22 (2) SUBSECTION (a).—The amendments made by sub-  
23 section (a) shall apply to taxable years beginning after De-  
24 cember 31, 2002.

25 **SEC. 203. REFUNDS DISREGARDED IN THE ADMINISTRA-**  
26 **TION OF FEDERAL PROGRAMS AND FEDER-**  
27 **ALLY ASSISTED PROGRAMS.**

28 Any payment considered to have been made to any indi-  
29 vidual by reason of section 24 of the Internal Revenue Code of  
30 1986, as amended by section 201, shall not be taken into ac-  
31 count as income and shall not be taken into account as re-  
32 sources for the month of receipt and the following month, for  
33 purposes of determining the eligibility of such individual or any  
34 other individual for benefits or assistance, or the amount or ex-  
35 tent of benefits or assistance, under any Federal program or



1 under any State or local program financed in whole or in part  
2 with Federal funds.

3 **SEC. 204. DEPENDENT CARE CREDIT.**

4 (a) INCREASE IN DOLLAR LIMIT.—Subsection (c) of sec-  
5 tion 21 (relating to expenses for household and dependent care  
6 services necessary for gainful employment) is amended—

7 (1) by striking “\$2,400” in paragraph (1) and insert-  
8 ing “\$3,000”, and

9 (2) by striking “\$4,800” in paragraph (2) and insert-  
10 ing “\$6,000”.

11 (b) INCREASE IN APPLICABLE PERCENTAGE.—Section  
12 21(a)(2) (defining applicable percentage) is amended—

13 (1) by striking “30 percent” and inserting “35 per-  
14 cent”, and

15 (2) by striking “\$10,000” and inserting “\$15,000”.

16 (c) EFFECTIVE DATE.—The amendments made by this  
17 section shall apply to taxable years beginning after December  
18 31, 2002.

19 **SEC. 205. ALLOWANCE OF CREDIT FOR EMPLOYER EX-**  
20 **PENSES FOR CHILD CARE ASSISTANCE.**

21 (a) IN GENERAL.—Subpart D of part IV of subchapter A  
22 of chapter 1 (relating to business related credits), as amended  
23 by section 619, is further amended by adding at the end the  
24 following:

25 **“SEC. 45F. EMPLOYER-PROVIDED CHILD CARE CREDIT.**

26 “(a) IN GENERAL.—For purposes of section 38, the em-  
27 ployer-provided child care credit determined under this section  
28 for the taxable year is an amount equal to the sum of—

29 “(1) 25 percent of the qualified child care expendi-  
30 tures, and

31 “(2) 10 percent of the qualified child care resource  
32 and referral expenditures,  
33 of the taxpayer for such taxable year.

34 “(b) DOLLAR LIMITATION.—The credit allowable under  
35 subsection (a) for any taxable year shall not exceed \$150,000.

36 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) QUALIFIED CHILD CARE EXPENDITURE.—

2 “(A) IN GENERAL.—The term ‘qualified child care  
3 expenditure’ means any amount paid or incurred—

4 “(i) to acquire, construct, rehabilitate, or ex-  
5 pand property—

6 “(I) which is to be used as part of a quali-  
7 fied child care facility of the taxpayer,

8 “(II) with respect to which a deduction for  
9 depreciation (or amortization in lieu of depre-  
10 ciation) is allowable, and

11 “(III) which does not constitute part of  
12 the principal residence (within the meaning of  
13 section 121) of the taxpayer or any employee of  
14 the taxpayer,

15 “(ii) for the operating costs of a qualified child  
16 care facility of the taxpayer, including costs related  
17 to the training of employees, to scholarship pro-  
18 grams, and to the providing of increased compensa-  
19 tion to employees with higher levels of child care  
20 training, or

21 “(iii) under a contract with a qualified child  
22 care facility to provide child care services to em-  
23 ployees of the taxpayer.

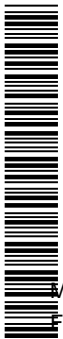
24 “(B) FAIR MARKET VALUE.—The term ‘qualified  
25 child care expenditures’ shall not include expenses in  
26 excess of the fair market value of such care.

27 “(2) QUALIFIED CHILD CARE FACILITY.—

28 “(A) IN GENERAL.—The term ‘qualified child care  
29 facility’ means a facility—

30 “(i) the principal use of which is to provide  
31 child care assistance, and

32 “(ii) which meets the requirements of all appli-  
33 cable laws and regulations of the State or local gov-  
34 ernment in which it is located, including the licens-  
35 ing of the facility as a child care facility.



1 Clause (i) shall not apply to a facility which is the prin-  
2 cipal residence (within the meaning of section 121) of  
3 the operator of the facility.

4 “(B) SPECIAL RULES WITH RESPECT TO A TAX-  
5 PAYER.—A facility shall not be treated as a qualified  
6 child care facility with respect to a taxpayer unless—

7 “(i) enrollment in the facility is open to em-  
8 ployees of the taxpayer during the taxable year,

9 “(ii) if the facility is the principal trade or  
10 business of the taxpayer, at least 30 percent of the  
11 enrollees of such facility are dependents of employ-  
12 ees of the taxpayer, and

13 “(iii) the use of such facility (or the eligibility  
14 to use such facility) does not discriminate in favor  
15 of employees of the taxpayer who are highly com-  
16 pensated employees (within the meaning of section  
17 414(q)).

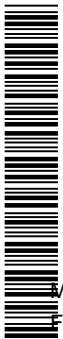
18 “(3) QUALIFIED CHILD CARE RESOURCE AND REFER-  
19 RAL EXPENDITURE.—

20 “(A) IN GENERAL.—The term ‘qualified child care  
21 resource and referral expenditure’ means any amount  
22 paid or incurred under a contract to provide child care  
23 resource and referral services to an employee of the  
24 taxpayer.

25 “(B) NONDISCRIMINATION.—The services shall  
26 not be treated as qualified unless the provision of such  
27 services (or the eligibility to use such services) does not  
28 discriminate in favor of employees of the taxpayer who  
29 are highly compensated employees (within the meaning  
30 of section 414(q)).

31 “(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION  
32 CREDIT.—

33 “(1) IN GENERAL.—If, as of the close of any taxable  
34 year, there is a recapture event with respect to any quali-  
35 fied child care facility of the taxpayer, then the tax of the



1 taxpayer under this chapter for such taxable year shall be  
2 increased by an amount equal to the product of—

3 “(A) the applicable recapture percentage, and

4 “(B) the aggregate decrease in the credits allowed  
5 under section 38 for all prior taxable years which would  
6 have resulted if the qualified child care expenditures of  
7 the taxpayer described in subsection (c)(1)(A) with re-  
8 spect to such facility had been zero.

9 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

10 “(A) IN GENERAL.—For purposes of this sub-  
11 section, the applicable recapture percentage shall be de-  
12 termined from the following table:

<b>“If the recapture event occurs in:</b>	<b>The applicable recapture percentage is:</b>
Years 1–3 .....	100
Year 4 .....	85
Year 5 .....	70
Year 6 .....	55
Year 7 .....	40
Year 8 .....	25
Years 9 and 10 .....	10
Years 11 and thereafter .....	0.

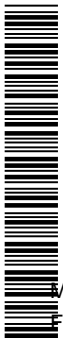
13 “(B) YEARS.—For purposes of subparagraph (A),  
14 year 1 shall begin on the first day of the taxable year  
15 in which the qualified child care facility is placed in  
16 service by the taxpayer.

17 “(3) RECAPTURE EVENT DEFINED.—For purposes of  
18 this subsection, the term ‘recapture event’ means—

19 “(A) CESSATION OF OPERATION.—The cessation  
20 of the operation of the facility as a qualified child care  
21 facility.

22 “(B) CHANGE IN OWNERSHIP.—

23 “(i) IN GENERAL.—Except as provided in  
24 clause (ii), the disposition of a taxpayer’s interest  
25 in a qualified child care facility with respect to  
26 which the credit described in subsection (a) was al-  
27 lowable.



1           “(ii) AGREEMENT TO ASSUME RECAPTURE LI-  
2           ABILITY.—Clause (i) shall not apply if the person  
3           acquiring such interest in the facility agrees in  
4           writing to assume the recapture liability of the per-  
5           son disposing of such interest in effect immediately  
6           before such disposition. In the event of such an as-  
7           sumption, the person acquiring the interest in the  
8           facility shall be treated as the taxpayer for pur-  
9           poses of assessing any recapture liability (computed  
10          as if there had been no change in ownership).

11          “(4) SPECIAL RULES.—

12           “(A) TAX BENEFIT RULE.—The tax for the tax-  
13           able year shall be increased under paragraph (1) only  
14           with respect to credits allowed by reason of this section  
15           which were used to reduce tax liability. In the case of  
16           credits not so used to reduce tax liability, the  
17           carryforwards and carrybacks under section 39 shall be  
18           appropriately adjusted.

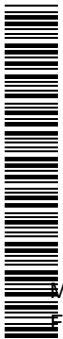
19           “(B) NO CREDITS AGAINST TAX.—Any increase in  
20           tax under this subsection shall not be treated as a tax  
21           imposed by this chapter for purposes of determining  
22           the amount of any credit under subpart A, B, or D of  
23           this part.

24           “(C) NO RECAPTURE BY REASON OF CASUALTY  
25           LOSS.—The increase in tax under this subsection shall  
26           not apply to a cessation of operation of the facility as  
27           a qualified child care facility by reason of a casualty  
28           loss to the extent such loss is restored by reconstruc-  
29           tion or replacement within a reasonable period estab-  
30           lished by the Secretary.

31          “(e) SPECIAL RULES.—For purposes of this section—

32           “(1) AGGREGATION RULES.—All persons which are  
33           treated as a single employer under subsections (a) and (b)  
34           of section 52 shall be treated as a single taxpayer.

35           “(2) PASS-THRU IN THE CASE OF ESTATES AND  
36           TRUSTS.—Under regulations prescribed by the Secretary,



1 rules similar to the rules of subsection (d) of section 52  
2 shall apply.

3 “(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—

4 In the case of partnerships, the credit shall be allocated  
5 among partners under regulations prescribed by the Sec-  
6 retary.

7 “(f) NO DOUBLE BENEFIT.—

8 “(1) REDUCTION IN BASIS.—For purposes of this  
9 subtitle—

10 “(A) IN GENERAL.—If a credit is determined  
11 under this section with respect to any property by rea-  
12 son of expenditures described in subsection (c)(1)(A),  
13 the basis of such property shall be reduced by the  
14 amount of the credit so determined.

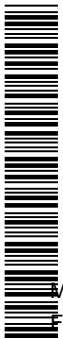
15 “(B) CERTAIN DISPOSITIONS.—If, during any tax-  
16 able year, there is a recapture amount determined with  
17 respect to any property the basis of which was reduced  
18 under subparagraph (A), the basis of such property  
19 (immediately before the event resulting in such recap-  
20 ture) shall be increased by an amount equal to such re-  
21 capture amount. For purposes of the preceding sen-  
22 tence, the term ‘recapture amount’ means any increase  
23 in tax (or adjustment in carrybacks or carryovers) de-  
24 termined under subsection (d).

25 “(2) OTHER DEDUCTIONS AND CREDITS.—No deduc-  
26 tion or credit shall be allowed under any other provision of  
27 this chapter with respect to the amount of the credit deter-  
28 mined under this section.”.

29 (b) CONFORMING AMENDMENTS.—

30 (1) Section 38(b), as amended by section 619, is  
31 amended by striking “plus” at the end of paragraph (13),  
32 by striking the period at the end of paragraph (14) and in-  
33 serting “, plus”, and by adding at the end the following:

34 “(15) the employer-provided child care credit deter-  
35 mined under section 45F.”.





1 (2) The table of sections for subpart D of part IV of  
2 subchapter A of chapter 1 is amended by adding at the end  
3 the following:

“Sec. 45F. Employer-provided child care credit.”

4 (3) Section 1016(a) is amended by striking “and” at  
5 the end of paragraph (26), by striking the period at the  
6 end of paragraph (27) and inserting “, and”, and by add-  
7 ing at the end the following:

8 “(28) in the case of a facility with respect to which  
9 a credit was allowed under section 45F, to the extent pro-  
10 vided in section 45F(f)(1).”.

11 (c) EFFECTIVE DATE.—The amendments made by this  
12 section shall apply to taxable years beginning after December  
13 31, 2001.

## 14 **TITLE III—MARRIAGE PENALTY** 15 **RELIEF**

### 16 **SEC. 301. ELIMINATION OF MARRIAGE PENALTY IN** 17 **STANDARD DEDUCTION.**

18 (a) IN GENERAL.—Paragraph (2) of section 63(c) (relat-  
19 ing to standard deduction) is amended—

20 (1) by striking “\$5,000” in subparagraph (A) and in-  
21 serting “the applicable percentage of the dollar amount in  
22 effect under subparagraph (C) for the taxable year”;

23 (2) by adding “or” at the end of subparagraph (B);

24 (3) by striking “in the case of” and all that follows  
25 in subparagraph (C) and inserting “in any other case.”;  
26 and

27 (4) by striking subparagraph (D).

28 (b) APPLICABLE PERCENTAGE.—Section 63(c) (relating to  
29 standard deduction) is amended by adding at the end the fol-  
30 lowing new paragraph:

31 “(7) APPLICABLE PERCENTAGE.—For purposes of  
32 paragraph (2), the applicable percentage shall be deter-  
33 mined in accordance with the following table:



<b>“For taxable years beginning in calendar year—</b>	<b>The applicable percentage is—</b>
2005 .....	174
2006 .....	184
2007 .....	187
2008 .....	190
2009 and thereafter .....	200.”.

1 (c) TECHNICAL AMENDMENTS.—

2 (1) Subparagraph (B) of section 1(f)(6) is amended by  
3 striking “(other than with” and all that follows through  
4 “shall be applied” and inserting “(other than with respect  
5 to sections 63(c)(4) and 151(d)(4)(A)) shall be applied”.

6 (2) Paragraph (4) of section 63(c) is amended by add-  
7 ing at the end the following flush sentence:

8 “The preceding sentence shall not apply to the amount re-  
9 ferred to in paragraph (2)(A).”.

10 (d) EFFECTIVE DATE.—The amendments made by this  
11 section shall apply to taxable years beginning after December  
12 31, 2004.

13 **SEC. 302. PHASEOUT OF MARRIAGE PENALTY IN 15-PER-**  
14 **CENT BRACKET.**

15 (a) IN GENERAL.—Section 1(f) (relating to adjustments in  
16 tax tables so that inflation will not result in tax increases) is  
17 amended by adding at the end the following new paragraph:

18 “(8) PHASEOUT OF MARRIAGE PENALTY IN 15-PER-  
19 CENT BRACKET.—

20 “(A) IN GENERAL.—With respect to taxable years  
21 beginning after December 31, 2004, in prescribing the  
22 tables under paragraph (1)—

23 “(i) the maximum taxable income in the 15-  
24 percent rate bracket in the table contained in sub-  
25 section (a) (and the minimum taxable income in  
26 the next higher taxable income bracket in such  
27 table) shall be the applicable percentage of the  
28 maximum taxable income in the 15-percent rate  
29 bracket in the table contained in subsection (c)  
30 (after any other adjustment under this subsection),  
31 and



1 “(ii) the comparable taxable income amounts  
 2 in the table contained in subsection (d) shall be  $\frac{1}{2}$   
 3 of the amounts determined under clause (i).

4 “(B) APPLICABLE PERCENTAGE.—For purposes of  
 5 subparagraph (A), the applicable percentage shall be  
 6 determined in accordance with the following table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable percentage is—</b>
2005 .....	180
2006 .....	187
2007 .....	193
2008 and thereafter .....	200.

7 “(C) ROUNDING.—If any amount determined  
 8 under subparagraph (A)(i) is not a multiple of \$50,  
 9 such amount shall be rounded to the next lowest mul-  
 10 tiple of \$50.”.

11 (b) TECHNICAL AMENDMENTS.—

12 (1) Subparagraph (A) of section 1(f)(2) is amended by  
 13 inserting “except as provided in paragraph (8),” before “by  
 14 increasing”.

15 (2) The heading for subsection (f) of section 1 is  
 16 amended by inserting “PHASEOUT OF MARRIAGE PENALTY  
 17 IN 15-PERCENT BRACKET;” before “ADJUSTMENTS”.

18 (c) EFFECTIVE DATE.—The amendments made by this  
 19 section shall apply to taxable years beginning after December  
 20 31, 2004.

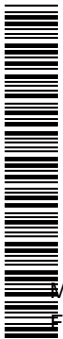
21 **SEC. 303. MARRIAGE PENALTY RELIEF FOR EARNED IN-**  
 22 **COME CREDIT; EARNED INCOME TO IN-**  
 23 **CLUDE ONLY AMOUNTS INCLUDIBLE IN**  
 24 **GROSS INCOME; SIMPLIFICATION OF**  
 25 **EARNED INCOME CREDIT.**

26 (a) INCREASED PHASEOUT AMOUNT.—

27 (1) IN GENERAL.—Section 32(b)(2) (relating to  
 28 amounts) is amended—

29 (A) by striking “AMOUNTS.—The earned” and in-  
 30 sserting “AMOUNTS.—

31 “(A) IN GENERAL.—Subject to subparagraph (B),  
 32 the earned”, and



1 (B) by adding at the end the following new sub-  
2 paragraph:

3 “(B) JOINT RETURNS.—In the case of a joint re-  
4 turn filed by an eligible individual and such individual’s  
5 spouse, the phaseout amount determined under sub-  
6 paragraph (A) shall be increased by—

7 “(i) \$1,000 in the case of taxable years begin-  
8 ning in 2002, 2003, and 2004,

9 “(ii) \$2,000 in the case of taxable years begin-  
10 ning in 2005, 2006, and 2007, and

11 “(iii) \$3,000 in the case of taxable years be-  
12 ginning after 2007.”.

13 (2) INFLATION ADJUSTMENT.—Paragraph (1)(B) of  
14 section 32(j) (relating to inflation adjustments) is amended  
15 to read as follows:

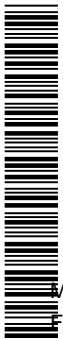
16 “(B) the cost-of-living adjustment determined  
17 under section 1(f)(3) for the calendar year in which the  
18 taxable year begins, determined—

19 “(i) in the case of amounts in subsections  
20 (b)(2)(A) and (i)(1), by substituting ‘calendar year  
21 1995’ for ‘calendar year 1992’ in subparagraph (B)  
22 thereof, and

23 “(ii) in the case of the \$3,000 amount in sub-  
24 section (b)(2)(B)(iii), by substituting ‘calendar year  
25 2007’ for ‘calendar year 1992’ in subparagraph (B)  
26 of such section 1.”.

27 (3) ROUNDING.—Section 32(j)(2)(A) (relating to  
28 rounding) is amended by striking “subsection (b)(2)” and  
29 inserting “subsection (b)(2)(A) (after being increased  
30 under subparagraph (B) thereof)”.

31 (b) EARNED INCOME TO INCLUDE ONLY AMOUNTS IN-  
32 CLUDIBLE IN GROSS INCOME.—Clause (i) of section  
33 32(c)(2)(A) (defining earned income) is amended by inserting  
34 “, but only if such amounts are includible in gross income for  
35 the taxable year” after “other employee compensation”.



1 (c) REPEAL OF REDUCTION OF CREDIT TO TAXPAYERS  
2 SUBJECT TO ALTERNATIVE MINIMUM TAX.—Section 32(h) is  
3 repealed.

4 (d) REPLACEMENT OF MODIFIED ADJUSTED GROSS IN-  
5 COME WITH ADJUSTED GROSS INCOME.—

6 (1) IN GENERAL.—Section 32(a)(2)(B) is amended by  
7 striking “modified”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 32(c) is amended by striking para-  
10 graph (5).

11 (B) Section 32(f)(2)(B) is amended by striking  
12 “modified” each place it appears.

13 (e) RELATIONSHIP TEST.—

14 (1) IN GENERAL.—Clause (i) of section 32(c)(3)(B)  
15 (relating to relationship test) is amended to read as follows:

16 “(i) IN GENERAL.—An individual bears a rela-  
17 tionship to the taxpayer described in this subpara-  
18 graph if such individual is—

19 “(I) a son, daughter, stepson, or step-  
20 daughter, or a descendant of any such indi-  
21 vidual,

22 “(II) a brother, sister, stepbrother, or  
23 stepsister, or a descendant of any such indi-  
24 vidual, who the taxpayer cares for as the tax-  
25 payer’s own child, or

26 “(III) an eligible foster child of the tax-  
27 payer.”.

28 (2) ELIGIBLE FOSTER CHILD.—

29 (A) IN GENERAL.—Clause (iii) of section  
30 32(c)(3)(B) is amended to read as follows:

31 “(iii) ELIGIBLE FOSTER CHILD.—For pur-  
32 poses of clause (i), the term ‘eligible foster child’  
33 means an individual not described in subclause (I)  
34 or (II) of clause (i) who—

35 “(I) is placed with the taxpayer by an au-  
36 thorized placement agency, and



1 “(II) the taxpayer cares for as the tax-  
2 payer’s own child.”.

3 (B) CONFORMING AMENDMENT.—Section  
4 32(c)(3)(A)(ii) is amended by striking “except as pro-  
5 vided in subparagraph (B)(iii),”.

6 (f) 2 OR MORE CLAIMING QUALIFYING CHILD.—Section  
7 32(c)(1)(C) is amended to read as follows:

8 “(C) 2 OR MORE CLAIMING QUALIFYING CHILD.—

9 “(i) IN GENERAL.—Except as provided in  
10 clause (ii), if (but for this paragraph) an individual  
11 may be claimed, and is claimed, as a qualifying  
12 child by 2 or more taxpayers for a taxable year be-  
13 ginning in the same calendar year, such individual  
14 shall be treated as the qualifying child of the tax-  
15 payer who is—

16 “(I) a parent of the individual, or

17 “(II) if subclause (I) does not apply, the  
18 taxpayer with the highest adjusted gross in-  
19 come for such taxable year.

20 “(ii) MORE THAN 1 CLAIMING CREDIT.—If the  
21 parents claiming the credit with respect to any  
22 qualifying child do not file a joint return together,  
23 such child shall be treated as the qualifying child  
24 of—

25 “(I) the parent with whom the child re-  
26 sided for the longest period of time during the  
27 taxable year, or

28 “(II) if the child resides with both parents  
29 for the same amount of time during such tax-  
30 able year, the parent with the highest adjusted  
31 gross income.”.

32 (g) EXPANSION OF MATHEMATICAL ERROR AUTHORITY.—  
33 Paragraph (2) of section 6213(g) is amended by striking “and”  
34 at the end of subparagraph (K), by striking the period at the  
35 end of subparagraph (L) and inserting “, and”, and by insert-  
36 ing after subparagraph (L) the following new subparagraph:

1 “(M) the entry on the return claiming the credit  
2 under section 32 with respect to a child if, according  
3 to the Federal Case Registry of Child Support Orders  
4 established under section 453(h) of the Social Security  
5 Act, the taxpayer is a noncustodial parent of such  
6 child.”

7 (h) CLERICAL AMENDMENT.—Subparagraph (E) of sec-  
8 tion 32(c)(3) is amended by striking “subparagraphs (A)(ii)  
9 and (B)(iii)(II)” and inserting “subparagraph (A)(ii)”.

10 (i) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as provided in paragraph  
12 (2), the amendments made by this section shall apply to  
13 taxable years beginning after December 31, 2001.

14 (2) SUBSECTION (g).—The amendment made by sub-  
15 section (g) shall take effect on January 1, 2004.

16 **TITLE IV—AFFORDABLE**  
17 **EDUCATION PROVISIONS**  
18 **Subtitle A—Education Savings**  
19 **Incentives**

20 **SEC. 401. MODIFICATIONS TO EDUCATION INDIVIDUAL**  
21 **RETIREMENT ACCOUNTS.**

22 (a) MAXIMUM ANNUAL CONTRIBUTIONS.—

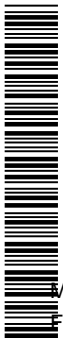
23 (1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining  
24 education individual retirement account) is amended by  
25 striking “\$500” and inserting “\$2,000”.

26 (2) CONFORMING AMENDMENT.—Section  
27 4973(e)(1)(A) is amended by striking “\$500” and inserting  
28 “\$2,000”.

29 (b) MODIFICATION OF AGI LIMITS TO REMOVE MAR-  
30 RIAGE PENALTY.—Section 530(c)(1) (relating to reduction in  
31 permitted contributions based on adjusted gross income) is  
32 amended—

33 (1) by striking “\$150,000” in subparagraph (A)(ii)  
34 and inserting “\$190,000”, and

35 (2) by striking “\$10,000” in subparagraph (B) and  
36 inserting “\$30,000”.



1 (c) TAX-FREE EXPENDITURES FOR ELEMENTARY AND  
2 SECONDARY SCHOOL EXPENSES.—

3 (1) IN GENERAL.—Section 530(b)(2) (defining quali-  
4 fied higher education expenses) is amended to read as fol-  
5 lows:

6 “(2) QUALIFIED EDUCATION EXPENSES.—

7 “(A) IN GENERAL.—The term ‘qualified education  
8 expenses’ means—

9 “(i) qualified higher education expenses (as  
10 defined in section 529(e)(3)), and

11 “(ii) qualified elementary and secondary edu-  
12 cation expenses (as defined in paragraph (4)).

13 “(B) QUALIFIED STATE TUITION PROGRAMS.—

14 Such term shall include any contribution to a qualified  
15 State tuition program (as defined in section 529(b)) on  
16 behalf of the designated beneficiary (as defined in sec-  
17 tion 529(e)(1)); but there shall be no increase in the  
18 investment in the contract for purposes of applying sec-  
19 tion 72 by reason of any portion of such contribution  
20 which is not includible in gross income by reason of  
21 subsection (d)(2).”.

22 (2) QUALIFIED ELEMENTARY AND SECONDARY EDU-  
23 CATION EXPENSES.—Section 530(b) (relating to definitions  
24 and special rules) is amended by adding at the end the fol-  
25 lowing new paragraph:

26 “(4) QUALIFIED ELEMENTARY AND SECONDARY EDU-  
27 CATION EXPENSES.—

28 “(A) IN GENERAL.—The term ‘qualified elemen-  
29 tary and secondary education expenses’ means—

30 “(i) expenses for tuition, fees, academic tutor-  
31 ing, special needs services in the case of a special  
32 needs beneficiary, books, supplies, and other equip-  
33 ment which are incurred in connection with the en-  
34 rollment or attendance of the designated bene-  
35 ficiary of the trust as an elementary or secondary





1 school student at a public, private, or religious  
2 school,

3 “(ii) expenses for room and board, uniforms,  
4 transportation, and supplementary items and serv-  
5 ices (including extended day programs) which are  
6 required or provided by a public, private, or reli-  
7 gious school in connection with such enrollment or  
8 attendance, and

9 “(iii) expenses for the purchase of any com-  
10 puter technology or equipment (as defined in sec-  
11 tion 170(e)(6)(F)(i)) or Internet access and related  
12 services, if such technology, equipment, or services  
13 are to be used by the beneficiary and the bene-  
14 ficiary’s family during any of the years the bene-  
15 ficiary is in school.

16 Clause (iii) shall not include expenses for computer  
17 software designed for sports, games, or hobbies unless  
18 the software is predominantly educational in nature.

19 “(B) SCHOOL.—The term ‘school’ means any  
20 school which provides elementary education or sec-  
21 ondary education (kindergarten through grade 12), as  
22 determined under State law.”.

23 (3) CONFORMING AMENDMENTS.—Section 530 is  
24 amended—

25 (A) by striking “higher” each place it appears in  
26 subsections (b)(1) and (d)(2), and

27 (B) by striking “HIGHER” in the heading for sub-  
28 section (d)(2).

29 (d) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH  
30 SPECIAL NEEDS.—Section 530(b)(1) (defining education indi-  
31 vidual retirement account) is amended by adding at the end the  
32 following flush sentence:

33 “The age limitations in subparagraphs (A)(ii) and (E), and  
34 paragraphs (5) and (6) of subsection (d), shall not apply  
35 to any designated beneficiary with special needs (as deter-  
36 mined under regulations prescribed by the Secretary).”.



1 (e) ENTITIES PERMITTED TO CONTRIBUTE TO AC-  
2 COUNTS.—Section 530(c)(1) (relating to reduction in permitted  
3 contributions based on adjusted gross income) is amended by  
4 striking “The maximum amount which a contributor” and in-  
5 serting “In the case of a contributor who is an individual, the  
6 maximum amount the contributor”.

7 (f) TIME WHEN CONTRIBUTIONS DEEMED MADE.—

8 (1) IN GENERAL.—Section 530(b) (relating to defini-  
9 tions and special rules), as amended by subsection (c)(2),  
10 is amended by adding at the end the following new para-  
11 graph:

12 “(5) TIME WHEN CONTRIBUTIONS DEEMED MADE.—  
13 An individual shall be deemed to have made a contribution  
14 to an education individual retirement account on the last  
15 day of the preceding taxable year if the contribution is  
16 made on account of such taxable year and is made not later  
17 than the time prescribed by law for filing the return for  
18 such taxable year (not including extensions thereof).”.

19 (2) EXTENSION OF TIME TO RETURN EXCESS CON-  
20 TRIBUTIONS.—Subparagraph (C) of section 530(d)(4) (re-  
21 lating to additional tax for distributions not used for edu-  
22 cational expenses) is amended—

23 (A) by striking clause (i) and inserting the fol-  
24 lowing new clause:

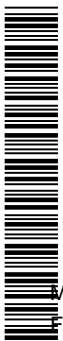
25 “(i) such distribution is made before the first  
26 day of the sixth month of the taxable year following  
27 the taxable year, and”, and

28 (B) by striking “DUE DATE OF RETURN” in the  
29 heading and inserting “CERTAIN DATE”.

30 (g) COORDINATION WITH HOPE AND LIFETIME LEARNING  
31 CREDITS AND QUALIFIED TUITION PROGRAMS.—

32 (1) IN GENERAL.—Section 530(d)(2)(C) is amended to  
33 read as follows:

34 “(C) COORDINATION WITH HOPE AND LIFETIME  
35 LEARNING CREDITS AND QUALIFIED TUITION PRO-  
36 GRAMS.—For purposes of subparagraph (A)—



1 “(i) CREDIT COORDINATION.—The total  
2 amount of qualified higher education expenses with  
3 respect to an individual for the taxable year shall  
4 be reduced—

5 “(I) as provided in section 25A(g)(2), and

6 “(II) by the amount of such expenses  
7 which were taken into account in determining  
8 the credit allowed to the taxpayer or any other  
9 person under section 25A.

10 “(ii) COORDINATION WITH QUALIFIED TUI-  
11 TION PROGRAMS.—If, with respect to an individual  
12 for any taxable year—

13 “(I) the aggregate distributions during  
14 such year to which subparagraph (A) and sec-  
15 tion 529(c)(3)(B) apply, exceed

16 “(II) the total amount of qualified edu-  
17 cation expenses (after the application of clause  
18 (i)) for such year,

19 the taxpayer shall allocate such expenses among  
20 such distributions for purposes of determining the  
21 amount of the exclusion under subparagraph (A)  
22 and section 529(c)(3)(B).”.

23 (2) CONFORMING AMENDMENTS.—

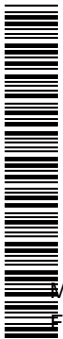
24 (A) Subsection (e) of section 25A is amended to  
25 read as follows:

26 “(e) ELECTION NOT TO HAVE SECTION APPLY.—A tax-  
27 payer may elect not to have this section apply with respect to  
28 the qualified tuition and related expenses of an individual for  
29 any taxable year.”.

30 (B) Section 135(d)(2)(A) is amended by striking  
31 “allowable” and inserting “allowed”.

32 (C) Section 530(d)(2)(D) is amended—

33 (i) by striking “or credit” and inserting “,  
34 credit, or exclusion”, and



1 (ii) by striking “CREDIT OR DEDUCTION” in  
2 the heading and inserting “DEDUCTION, CREDIT,  
3 OR EXCLUSION”.

4 (D) Section 4973(e)(1) is amended by adding  
5 “and” at the end of subparagraph (A), by striking sub-  
6 paragraph (B), and by redesignating subparagraph (C)  
7 as subparagraph (B).

8 (h) EFFECTIVE DATE.—The amendments made by this  
9 section shall apply to taxable years beginning after December  
10 31, 2001.

11 **SEC. 402. MODIFICATIONS TO QUALIFIED TUITION PRO-**  
12 **GRAMS.**

13 (a) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED  
14 TO MAINTAIN QUALIFIED TUITION PROGRAMS.—

15 (1) IN GENERAL.—Section 529(b)(1) (defining qualified  
16 State tuition program) is amended—

17 (A) by inserting “or by 1 or more eligible edu-  
18 cational institutions” after “maintained by a State or  
19 agency or instrumentality thereof” in the matter pre-  
20 ceding subparagraph (A), and

21 (B) by adding at the end the following new flush  
22 sentence:

23 “Except to the extent provided in regulations, a program  
24 established and maintained by 1 or more eligible edu-  
25 cational institutions shall not be treated as a qualified tui-  
26 tion program unless such program provides that amounts  
27 are held in a qualified trust and such program has received  
28 a ruling or determination that such program meets the ap-  
29 plicable requirements for a qualified tuition program. For  
30 purposes of the preceding sentence, the term ‘qualified  
31 trust’ means a trust which is created or organized in the  
32 United States for the exclusive benefit of designated bene-  
33 ficiaries and with respect to which the requirements of  
34 paragraphs (2) and (5) of section 408(a) are met.”.

35 (2) PRIVATE QUALIFIED TUITION PROGRAMS LIMITED  
36 TO BENEFIT PLANS.—Clause (ii) of section 529(b)(1)(A) is



1 amended by inserting “in the case of a program established  
2 and maintained by a State or agency or instrumentality  
3 thereof,” before “may make”.

4 (3) ADDITIONAL TAX ON NONQUALIFIED WITH-  
5 DRAWALS.—Section 529 is amended—

6 (A) by striking paragraph (3) of subsection (b)  
7 and by redesignating paragraphs (4), (5), (6), and (7)  
8 of such subsection as paragraphs (3), (4), (5), and (6),  
9 respectively, and

10 (B) by adding at the end of subsection (c) the fol-  
11 lowing new paragraph:

12 “(6) ADDITIONAL TAX.—The tax imposed by section  
13 530(d)(4) shall apply to any payment or distribution from  
14 a qualified tuition program in the same manner as such tax  
15 applies to a payment or distribution from an education in-  
16 dividual retirement account. This paragraph shall not apply  
17 to any payment or distribution in any taxable year begin-  
18 ning before January 1, 2004, which is includible in gross  
19 income but used for qualified higher education expenses of  
20 the designated beneficiary.”.

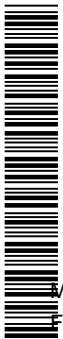
21 (4) CONFORMING AMENDMENTS.—

22 (A) Sections 72(e)(9), 135(c)(2)(C), 135(d)(1)(D),  
23 529, 530(b)(2)(B), 4973(e), and 6693(a)(2)(C) are  
24 amended by striking “qualified State tuition” each  
25 place it appears and inserting “qualified tuition”.

26 (B) The headings for sections 72(e)(9) and  
27 135(c)(2)(C) are amended by striking “QUALIFIED  
28 STATE TUITION” each place it appears and inserting  
29 “QUALIFIED TUITION”.

30 (C) The headings for sections 529(b) and  
31 530(b)(2)(B) are amended by striking “QUALIFIED  
32 STATE TUITION” each place it appears and inserting  
33 “QUALIFIED TUITION”.

34 (D) The heading for section 529 is amended by  
35 striking “**STATE**”.



1 (E) The item relating to section 529 in the table  
2 of sections for part VIII of subchapter F of chapter 1  
3 is amended by striking “State”.

4 (b) EXCLUSION FROM GROSS INCOME OF EDUCATION  
5 DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS.—

6 (1) IN GENERAL.—Section 529(c)(3)(B) (relating to  
7 distributions) is amended to read as follows:

8 “(B) DISTRIBUTIONS FOR QUALIFIED HIGHER  
9 EDUCATION EXPENSES.—For purposes of this  
10 paragraph—

11 “(i) IN-KIND DISTRIBUTIONS.—No amount  
12 shall be includible in gross income under subpara-  
13 graph (A) by reason of a distribution which con-  
14 sists of providing a benefit to the distributee which,  
15 if paid for by the distributee, would constitute pay-  
16 ment of a qualified higher education expense.

17 “(ii) CASH DISTRIBUTIONS.—In the case of  
18 distributions not described in clause (i), if—

19 “(I) such distributions do not exceed the  
20 qualified higher education expenses (reduced by  
21 expenses described in clause (i)), no amount  
22 shall be includible in gross income, and

23 “(II) in any other case, the amount other-  
24 wise includible in gross income shall be reduced  
25 by an amount which bears the same ratio to  
26 such amount as such expenses bear to such dis-  
27 tributions.

28 “(iii) EXCEPTION FOR INSTITUTIONAL PRO-  
29 GRAMS.—In the case of any taxable year beginning  
30 before January 1, 2004, clauses (i) and (ii) shall  
31 not apply with respect to any distribution during  
32 such taxable year under a qualified tuition program  
33 established and maintained by 1 or more eligible  
34 educational institutions.

35 “(iv) TREATMENT AS DISTRIBUTIONS.—Any  
36 benefit furnished to a designated beneficiary under



1 a qualified tuition program shall be treated as a  
2 distribution to the beneficiary for purposes of this  
3 paragraph.

4 “(v) COORDINATION WITH HOPE AND LIFE-  
5 TIME LEARNING CREDITS.—The total amount of  
6 qualified higher education expenses with respect to  
7 an individual for the taxable year shall be  
8 reduced—

9 “(I) as provided in section 25A(g)(2), and

10 “(II) by the amount of such expenses  
11 which were taken into account in determining  
12 the credit allowed to the taxpayer or any other  
13 person under section 25A.

14 “(vi) COORDINATION WITH EDUCATION INDI-  
15 VIDUAL RETIREMENT ACCOUNTS.—If, with respect  
16 to an individual for any taxable year—

17 “(I) the aggregate distributions to which  
18 clauses (i) and (ii) and section 530(d)(2)(A)  
19 apply, exceed

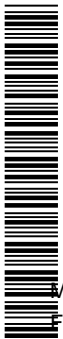
20 “(II) the total amount of qualified higher  
21 education expenses otherwise taken into ac-  
22 count under clauses (i) and (ii) (after the appli-  
23 cation of clause (v)) for such year,

24 the taxpayer shall allocate such expenses among  
25 such distributions for purposes of determining the  
26 amount of the exclusion under clauses (i) and (ii)  
27 and section 530(d)(2)(A).”.

28 (2) CONFORMING AMENDMENTS.—

29 (A) Section 135(d)(2)(B) is amended by striking  
30 “the exclusion under section 530(d)(2)” and inserting  
31 “the exclusions under sections 529(e)(3)(B) and  
32 530(d)(2)”.

33 (B) Section 221(e)(2)(A) is amended by inserting  
34 “529,” after “135,”.



1 (c) ROLLOVER TO DIFFERENT PROGRAM FOR BENEFIT  
2 OF SAME DESIGNATED BENEFICIARY.—Section 529(e)(3)(C)  
3 (relating to change in beneficiaries) is amended—

4 (1) by striking “transferred to the credit” in clause (i)  
5 and inserting “transferred—

6 “(I) to another qualified tuition program  
7 for the benefit of the designated beneficiary, or

8 “(II) to the credit”,

9 (2) by adding at the end the following new clause:

10 “(iii) LIMITATION ON CERTAIN ROLLOVERS.—

11 Clause (i)(I) shall not apply to any transfer if such  
12 transfer occurs within 12 months from the date of  
13 a previous transfer to any qualified tuition program  
14 for the benefit of the designated beneficiary.”, and

15 (3) by inserting “OR PROGRAMS” after “BENE-  
16 FICIARIES” in the heading.

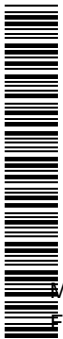
17 (d) MEMBER OF FAMILY INCLUDES FIRST COUSIN.—Sec-  
18 tion 529(e)(2) (defining member of family) is amended by  
19 striking “and” at the end of subparagraph (B), by striking the  
20 period at the end of subparagraph (C) and by inserting “;  
21 and”, and by adding at the end the following new subpara-  
22 graph:

23 “(D) any first cousin of such beneficiary.”.

24 (e) ADJUSTMENT OF LIMITATION ON ROOM AND BOARD  
25 DISTRIBUTIONS.—Section 529(e)(3)(B)(ii) is amended to read  
26 as follows:

27 “(ii) LIMITATION.—The amount treated as  
28 qualified higher education expenses by reason of  
29 clause (i) shall not exceed—

30 “(I) the allowance (applicable to the stu-  
31 dent) for room and board included in the cost  
32 of attendance (as defined in section 472 of the  
33 Higher Education Act of 1965 (20 U.S.C.  
34 10871l), as in effect on the date of the enact-  
35 ment of the Economic Growth and Tax Relief  
36 Reconciliation Act of 2001) as determined by





1 the eligible educational institution for such pe-  
2 riod, or

3 “(II) if greater, the actual invoice amount  
4 the student residing in housing owned or oper-  
5 ated by the eligible educational institution is  
6 charged by such institution for room and board  
7 costs for such period.”.

8 (f) SPECIAL NEEDS SERVICES.—Subparagraph (A) of sec-  
9 tion 529(e)(3) (defining qualified higher education expenses) is  
10 amended to read as follows:

11 “(A) IN GENERAL.—The term ‘qualified higher  
12 education expenses’ means—

13 “(i) tuition, fees, books, supplies, and equip-  
14 ment required for the enrollment or attendance of  
15 a designated beneficiary at an eligible educational  
16 institution; and

17 “(ii) expenses for special needs services in the  
18 case of a special needs beneficiary which are in-  
19 curred in connection with such enrollment or at-  
20 tendance.”.

21 (g) TECHNICAL AMENDMENTS.—Section 529(c)(3)(D) is  
22 amended—

23 (1) by inserting “except to the extent provided by the  
24 Secretary,” before “all distributions” in clause (ii), and

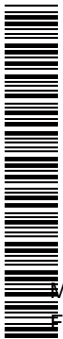
25 (2) by inserting “except to the extent provided by the  
26 Secretary,” before “the value” in clause (iii).

27 (h) EFFECTIVE DATE.—The amendments made by this  
28 section shall apply to taxable years beginning after December  
29 31, 2001.

## 30 **Subtitle B—Educational Assistance**

### 31 **SEC. 411. EXTENSION OF EXCLUSION FOR EMPLOYER-** 32 **PROVIDED EDUCATIONAL ASSISTANCE.**

33 (a) IN GENERAL.—Section 127 (relating to exclusion for  
34 educational assistance programs) is amended by striking sub-  
35 section (d) and by redesignating subsection (e) as subsection  
36 (d).



1 (b) REPEAL OF LIMITATION ON GRADUATE EDU-  
2 CATION.—The last sentence of section 127(c)(1) is amended by  
3 striking “, and such term also does not include any payment  
4 for, or the provision of any benefits with respect to, any grad-  
5 uate level course of a kind normally taken by an individual pur-  
6 suing a program leading to a law, business, medical, or other  
7 advanced academic or professional degree”.

8 (c) CONFORMING AMENDMENT.—Section 51A(b)(5)(B)(iii)  
9 is amended by striking “or would be so excludable but for sec-  
10 tion 127(d)”.

11 (d) EFFECTIVE DATE.—The amendments made by this  
12 section shall apply with respect to expenses relating to courses  
13 beginning after December 31, 2001.

14 **SEC. 412. ELIMINATION OF 60-MONTH LIMIT AND IN-**  
15 **CREASE IN INCOME LIMITATION ON STU-**  
16 **DENT LOAN INTEREST DEDUCTION.**

17 (a) ELIMINATION OF 60-MONTH LIMIT.—

18 (1) IN GENERAL.—Section 221 (relating to interest on  
19 education loans), as amended by section 402(b)(2)(B), is  
20 amended by striking subsection (d) and by redesignating  
21 subsections (e), (f), and (g) as subsections (d), (e), and (f),  
22 respectively.

23 (2) CONFORMING AMENDMENT.—Section 6050S(e) is  
24 amended by striking “section 221(e)(1)” and inserting  
25 “section 221(d)(1)”.

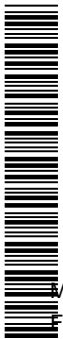
26 (3) EFFECTIVE DATE.—The amendments made by  
27 this subsection shall apply with respect to any loan interest  
28 paid after December 31, 2001, in taxable years ending  
29 after such date.

30 (b) INCREASE IN INCOME LIMITATION.—

31 (1) IN GENERAL.—Section 221(b)(2)(B) (relating to  
32 amount of reduction) is amended by striking clauses (i) and  
33 (ii) and inserting the following:

34 “(i) the excess of—

35 “(I) the taxpayer’s modified adjusted  
36 gross income for such taxable year, over



1 “(II) \$50,000 (\$100,000 in the case of a  
2 joint return), bears to

3 “(ii) \$15,000 (\$30,000 in the case of a joint  
4 return).”.

5 (2) CONFORMING AMENDMENT.—Section 221(g)(1) is  
6 amended by striking “\$40,000 and \$60,000 amounts” and  
7 inserting “\$50,000 and \$100,000 amounts”.

8 (3) EFFECTIVE DATE.—The amendments made by  
9 this subsection shall apply to taxable years ending after  
10 December 31, 2001.

11 **SEC. 413. EXCLUSION OF CERTAIN AMOUNTS RECEIVED**  
12 **UNDER THE NATIONAL HEALTH SERVICE**  
13 **CORPS SCHOLARSHIP PROGRAM AND THE F.**  
14 **EDWARD HEBERT ARMED FORCES HEALTH**  
15 **PROFESSIONS SCHOLARSHIP AND FINAN-**  
16 **CIAL ASSISTANCE PROGRAM.**

17 (a) IN GENERAL.—Section 117(c) (relating to the exclu-  
18 sion from gross income amounts received as a qualified scholar-  
19 ship) is amended—

20 (1) by striking “Subsections (a)” and inserting the fol-  
21 lowing:

22 “(1) IN GENERAL.—Except as provided in paragraph  
23 (2), subsections (a)”, and

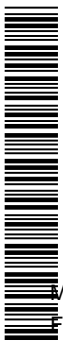
24 (2) by adding at the end the following new paragraph:

25 “(2) EXCEPTIONS.—Paragraph (1) shall not apply to  
26 any amount received by an individual under—

27 “(A) the National Health Service Corps Scholar-  
28 ship Program under section 338A(g)(1)(A) of the Pub-  
29 lic Health Service Act, or

30 “(B) the Armed Forces Health Professions Schol-  
31 arship and Financial Assistance program under sub-  
32 chapter I of chapter 105 of title 10, United States  
33 Code.”.

34 (b) EFFECTIVE DATE.—The amendments made by sub-  
35 section (a) shall apply to amounts received in taxable years be-  
36 ginning after December 31, 2001.



1     **Subtitle C—Liberalization of Tax-Ex-**  
2         **empt Financing Rules for Public**  
3         **School Construction**

4     **SEC. 421. ADDITIONAL INCREASE IN ARBITRAGE RE-**  
5         **BATE EXCEPTION FOR GOVERNMENTAL**  
6         **BONDS USED TO FINANCE EDUCATIONAL FA-**  
7         **CILITIES.**

8         (a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relating to  
9         increase in exception for bonds financing public school capital  
10        expenditures) is amended by striking “\$5,000,000” the second  
11        place it appears and inserting “\$10,000,000”.

12        (b) EFFECTIVE DATE.—The amendment made by sub-  
13        section (a) shall apply to obligations issued in calendar years  
14        beginning after December 31, 2001.

15     **SEC. 422. TREATMENT OF QUALIFIED PUBLIC EDU-**  
16         **CATIONAL FACILITY BONDS AS EXEMPT FA-**  
17         **CILITY BONDS.**

18        (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-  
19        section (a) of section 142 (relating to exempt facility bond) is  
20        amended by striking “or” at the end of paragraph (11), by  
21        striking the period at the end of paragraph (12) and inserting  
22        “*, or*”, and by adding at the end the following new paragraph:  
23        “(13) qualified public educational facilities.”.

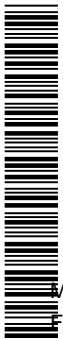
24        (b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Sec-  
25        tion 142 (relating to exempt facility bond) is amended by add-  
26        ing at the end the following new subsection:

27        “(k) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—

28            “(1) IN GENERAL.—For purposes of subsection  
29            (a)(13), the term ‘qualified public educational facility’  
30            means any school facility which is—

31                “(A) part of a public elementary school or a public  
32                secondary school, and

33                “(B) owned by a private, for-profit corporation  
34                pursuant to a public-private partnership agreement  
35                with a State or local educational agency described in  
36                paragraph (2).



1           “(2) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT DE-  
2       SCRIBED.—A public-private partnership agreement is de-  
3       scribed in this paragraph if it is an agreement—

4           “(A) under which the corporation agrees—

5           “(i) to do 1 or more of the following: con-  
6       struct, rehabilitate, refurbish, or equip a school fa-  
7       cility, and

8           “(ii) at the end of the term of the agreement,  
9       to transfer the school facility to such agency for no  
10      additional consideration, and

11          “(B) the term of which does not exceed the term  
12      of the issue to be used to provide the school facility.

13          “(3) SCHOOL FACILITY.—For purposes of this sub-  
14      section, the term ‘school facility’ means—

15          “(A) any school building,

16          “(B) any functionally related and subordinate fa-  
17      cility and land with respect to such building, including  
18      any stadium or other facility primarily used for school  
19      events, and

20          “(C) any property, to which section 168 applies  
21      (or would apply but for section 179), for use in a facil-  
22      ity described in subparagraph (A) or (B).

23          “(4) PUBLIC SCHOOLS.—For purposes of this sub-  
24      section, the terms ‘elementary school’ and ‘secondary  
25      school’ have the meanings given such terms by section  
26      14101 of the Elementary and Secondary Education Act of  
27      1965 (20 U.S.C. 8801), as in effect on the date of the en-  
28      actment of this subsection.

29          “(5) ANNUAL AGGREGATE FACE AMOUNT OF TAX-EX-  
30      EMPT FINANCING.—

31          “(A) IN GENERAL.—An issue shall not be treated  
32      as an issue described in subsection (a)(13) if the aggre-  
33      gate face amount of bonds issued by the State pursu-  
34      ant thereto (when added to the aggregate face amount  
35      of bonds previously so issued during the calendar year)  
36      exceeds an amount equal to the greater of—



1 “(i) \$10 multiplied by the State population, or  
2 “(ii) \$5,000,000.

3 “(B) ALLOCATION RULES.—

4 “(i) IN GENERAL.—Except as otherwise pro-  
5 vided in this subparagraph, the State may allocate  
6 the amount described in subparagraph (A) for any  
7 calendar year in such manner as the State deter-  
8 mines appropriate.

9 “(ii) RULES FOR CARRYFORWARD OF UNUSED  
10 LIMITATION.—A State may elect to carry forward  
11 an unused limitation for any calendar year for 3  
12 calendar years following the calendar year in which  
13 the unused limitation arose under rules similar to  
14 the rules of section 146(f), except that the only  
15 purpose for which the carryforward may be elected  
16 is the issuance of exempt facility bonds described in  
17 subsection (a)(13).”.

18 (c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—  
19 Paragraph (3) of section 146(g) (relating to exception for cer-  
20 tain bonds) is amended—

21 (1) by striking “or (12)” and inserting “(12), or  
22 (13)”, and

23 (2) by striking “and environmental enhancements of  
24 hydroelectric generating facilities” and inserting “environ-  
25 mental enhancements of hydroelectric generating facilities,  
26 and qualified public educational facilities”.

27 (d) EXEMPTION FROM LIMITATION ON USE FOR LAND  
28 ACQUISITION.—Section 147(h) (relating to certain rules not to  
29 apply to mortgage revenue bonds, qualified student loan bonds,  
30 and qualified 501(c)(3) bonds) is amended by adding at the  
31 end the following new paragraph:

32 “(3) EXEMPT FACILITY BONDS FOR QUALIFIED PUB-  
33 LIC-PRIVATE SCHOOLS.—Subsection (c) shall not apply to  
34 any exempt facility bond issued as part of an issue de-  
35 scribed in section 142(a)(13) (relating to qualified public  
36 educational facilities).”.



1 (e) CONFORMING AMENDMENT.—The heading for section  
2 147(h) is amended by striking “MORTGAGE REVENUE BONDS,  
3 QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3)  
4 BONDS” and inserting “CERTAIN BONDS”.

5 (f) EFFECTIVE DATE.—The amendments made by this  
6 section shall apply to bonds issued after December 31, 2001.

## 7 **Subtitle D—Other Provisions**

### 8 **SEC. 431. DEDUCTION FOR HIGHER EDUCATION EX-** 9 **PENSES.**

10 (a) DEDUCTION ALLOWED.—Part VII of subchapter B of  
11 chapter 1 (relating to additional itemized deductions for indi-  
12 viduals) is amended by redesignating section 222 as section  
13 223 and by inserting after section 221 the following:

#### 14 **“SEC. 222. QUALIFIED TUITION AND RELATED EX-** 15 **PENSES.**

16 “(a) ALLOWANCE OF DEDUCTION.—In the case of an indi-  
17 vidual, there shall be allowed as a deduction an amount equal  
18 to the qualified tuition and related expenses paid by the tax-  
19 payer during the taxable year.

20 “(b) DOLLAR LIMITATIONS.—

21 “(1) IN GENERAL.—The amount allowed as a deduc-  
22 tion under subsection (a) with respect to the taxpayer for  
23 any taxable year shall not exceed the applicable dollar limit.

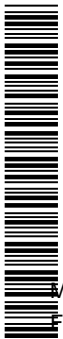
24 “(2) APPLICABLE DOLLAR LIMIT.—

25 “(A) 2002 AND 2003.—In the case of a taxable  
26 year beginning in 2002 or 2003, the applicable dollar  
27 limit shall be equal to—

28 “(i) in the case of a taxpayer whose adjusted  
29 gross income for the taxable year does not exceed  
30 \$65,000 (\$130,000 in the case of a joint return),  
31 \$3,000, and—

32 “(ii) in the case of any other taxpayer, zero.

33 “(B) 2004 AND 2005.—In the case of a taxable  
34 year beginning in 2004 or 2005, the applicable dollar  
35 amount shall be equal to—



“(i) in the case of a taxpayer whose adjusted gross income for the taxable year does not exceed \$65,000 (\$130,000 in the case of a joint return), \$4,000,

“(ii) in the case of a taxpayer not described in clause (i) whose adjusted gross income for the taxable year does not exceed \$80,000 (\$160,000 in the case of a joint return), \$2,000, and

“(iii) in the case of any other taxpayer, zero.

“(C) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income shall be determined—

“(i) without regard to this section and sections 911, 931, and 933, and

“(ii) after application of sections 86, 135, 137, 219, 221, and 469.

“(c) NO DOUBLE BENEFIT.—

“(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowed to the taxpayer under any other provision of this chapter.

“(2) COORDINATION WITH OTHER EDUCATION INCENTIVES.—

“(A) DENIAL OF DEDUCTION IF CREDIT ELECTED.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses with respect to an individual if the taxpayer or any other person elects to have section 25A apply with respect to such individual for such year.

“(B) COORDINATION WITH EXCLUSIONS.—The total amount of qualified tuition and related expenses shall be reduced by the amount of such expenses taken into account in determining any amount excluded under section 135, 529(c)(1), or 530(d)(2). For purposes of the preceding sentence, the amount taken into



1 account in determining the amount excluded under sec-  
2 tion 529(c)(1) shall not include that portion of the dis-  
3 tribution which represents a return of any contribu-  
4 tions to the plan.

5 “(3) DEPENDENTS.—No deduction shall be allowed  
6 under subsection (a) to any individual with respect to  
7 whom a deduction under section 151 is allowable to an-  
8 other taxpayer for a taxable year beginning in the calendar  
9 year in which such individual’s taxable year begins.

10 “(d) DEFINITIONS AND SPECIAL RULES.—For purposes of  
11 this section—

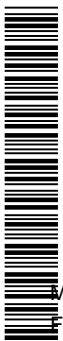
12 “(1) QUALIFIED TUITION AND RELATED EXPENSES.—  
13 The term ‘qualified tuition and related expenses’ has the  
14 meaning given such term by section 25A(f). Such expenses  
15 shall be reduced in the same manner as under section  
16 25A(g)(2).

17 “(2) IDENTIFICATION REQUIREMENT.—No deduction  
18 shall be allowed under subsection (a) to a taxpayer with re-  
19 spect to the qualified tuition and related expenses of an in-  
20 dividual unless the taxpayer includes the name and tax-  
21 payer identification number of the individual on the return  
22 of tax for the taxable year.

23 “(3) LIMITATION ON TAXABLE YEAR OF DEDUC-  
24 TION.—

25 “(A) IN GENERAL.—A deduction shall be allowed  
26 under subsection (a) for qualified tuition and related  
27 expenses for any taxable year only to the extent such  
28 expenses are in connection with enrollment at an insti-  
29 tution of higher education during the taxable year.

30 “(B) CERTAIN PREPAYMENTS ALLOWED.—Sub-  
31 paragraph (A) shall not apply to qualified tuition and  
32 related expenses paid during a taxable year if such ex-  
33 penses are in connection with an academic term begin-  
34 ning during such taxable year or during the first 3  
35 months of the next taxable year.



1           “(4) NO DEDUCTION FOR MARRIED INDIVIDUALS FIL-  
2       ING SEPARATE RETURNS.—If the taxpayer is a married in-  
3       dividual (within the meaning of section 7703), this section  
4       shall apply only if the taxpayer and the taxpayer’s spouse  
5       file a joint return for the taxable year.

6           “(5) NONRESIDENT ALIENS.—If the taxpayer is a  
7       nonresident alien individual for any portion of the taxable  
8       year, this section shall apply only if such individual is treat-  
9       ed as a resident alien of the United States for purposes of  
10      this chapter by reason of an election under subsection (g)  
11      or (h) of section 6013.

12          “(6) REGULATIONS.—The Secretary may prescribe  
13      such regulations as may be necessary or appropriate to  
14      carry out this section, including regulations requiring rec-  
15      ordkeeping and information reporting.

16          “(e) TERMINATION.—This section shall not apply to tax-  
17      able years beginning after December 31, 2005.”.

18          (b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED  
19      GROSS INCOME.—Section 62(a) is amended by inserting after  
20      paragraph (17) the following:

21           “(18) HIGHER EDUCATION EXPENSES.—The deduc-  
22      tion allowed by section 222.”.

23          (c) CONFORMING AMENDMENTS.—

24           (1) Sections 86(b)(2), 135(e)(4), 137(b)(3), and  
25      219(g)(3) are each amended by inserting “222,” after  
26      “221,”.

27           (2) Section 221(b)(2)(C) is amended by inserting  
28      “222,” before “911”.

29           (3) Section 469(i)(3)(F) is amended by striking “and  
30      221” and inserting “, 221, and 222”.

31           (4) The table of sections for part VII of subchapter  
32      B of chapter 1 is amended by striking the item relating to  
33      section 222 and inserting the following:

          “Sec. 222. Qualified tuition and related expenses.

          “Sec. 223. Cross reference.”.

1 (d) EFFECTIVE DATE.—The amendments made by this  
2 section shall apply to payments made in taxable years begin-  
3 ning after December 31, 2001.

4 **TITLE V—ESTATE, GIFT, AND GEN-**  
5 **ERATION-SKIPPING TRANSFER**  
6 **TAX PROVISIONS**

7 **Subtitle A—Repeal of Estate and**  
8 **Generation-Skipping Transfer Taxes**

9 **SEC. 501. REPEAL OF ESTATE AND GENERATION-SKIP-**  
10 **PING TRANSFER TAXES.**

11 (a) ESTATE TAX REPEAL.—Subchapter C of chapter 11  
12 of subtitle B (relating to miscellaneous) is amended by adding  
13 at the end the following new section:

14 **“SEC. 2210. TERMINATION.**

15 “(a) IN GENERAL.—Except as provided in subsection (b),  
16 this chapter shall not apply to the estates of decedents dying  
17 after December 31, 2009.

18 “(b) CERTAIN DISTRIBUTIONS FROM QUALIFIED DOMES-  
19 TIC TRUSTS.—In applying section 2056A with respect to the  
20 surviving spouse of a decedent dying before January 1, 2010—

21 “(1) section 2056A(b)(1)(A) shall not apply to dis-  
22 tributions made after December 31, 2020, and

23 “(2) section 2056A(b)(1)(B) shall not apply after De-  
24 cember 31, 2009.”.

25 (b) GENERATION-SKIPPING TRANSFER TAX REPEAL.—  
26 Subchapter G of chapter 13 of subtitle B (relating to adminis-  
27 tration) is amended by adding at the end the following new sec-  
28 tion:

29 **“SEC. 2664. TERMINATION.**

30 “This chapter shall not apply to generation-skipping trans-  
31 fers after December 31, 2009.”.

32 (c) CONFORMING AMENDMENTS.—

33 (1) The table of sections for subchapter C of chapter  
34 11 is amended by adding at the end the following new item:

“Sec. 2210. Termination.”.



1 (2) The table of sections for subchapter G of chapter  
2 13 is amended by adding at the end the following new item:

“Sec. 2664. Termination.”.

3 (d) EFFECTIVE DATE.—The amendments made by this  
4 section shall apply to the estates of decedents dying, and gen-  
5 eration-skipping transfers, after December 31, 2009.

6 **Subtitle B—Reductions of Estate and**  
7 **Gift Tax Rates**

8 **SEC. 511. ADDITIONAL REDUCTIONS OF ESTATE AND**  
9 **GIFT TAX RATES.**

10 (a) MAXIMUM RATE OF TAX REDUCED TO 50 PER-  
11 CENT.—The table contained in section 2001(c)(1) is amended  
12 by striking the two highest brackets and inserting the fol-  
13 lowing:

“Over \$2,500,000 ..... \$1,025,800, plus 50% of the excess  
over \$2,500,000.”.

14 (b) REPEAL OF PHASEOUT OF GRADUATED RATES.—Sub-  
15 section (c) of section 2001 is amended by striking paragraph  
16 (2).

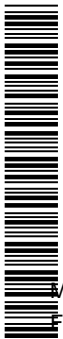
17 (c) ADDITIONAL REDUCTIONS OF MAXIMUM RATE OF  
18 TAX.—Subsection (c) of section 2001, as amended by sub-  
19 section (b), is amended by adding at the end the following new  
20 paragraph:

21 “(2) PHASEDOWN OF MAXIMUM RATE OF TAX.—

22 “(A) IN GENERAL.—In the case of estates of dece-  
23 dents dying, and gifts made, in calendar years after  
24 2002 and before 2010, the tentative tax under this sub-  
25 section shall be determined by using a table prescribed  
26 by the Secretary (in lieu of using the table contained  
27 in paragraph (1)) which is the same as such table; ex-  
28 cept that—

29 “(i) the maximum rate of tax for any calendar  
30 year shall be determined in the table under sub-  
31 paragraph (B), and

32 “(ii) the brackets and the amounts setting  
33 forth the tax shall be adjusted to the extent nec-



1            necessary to reflect the adjustments under subpara-  
 2            graph (A).  
 3            “(B) MAXIMUM RATE.—

<b>“In calendar year:</b>	<b>The maximum rate is:</b>
2003 .....	49 percent
2004 .....	48 percent
2005 .....	47 percent
2006 .....	46 percent
2007, 2008, and 2009 .....	45 percent.”.

4            (d) MAXIMUM GIFT TAX RATE REDUCED TO MAXIMUM  
 5            INDIVIDUAL RATE AFTER 2009.—Subsection (a) of section  
 6            2502 (relating to rate of tax) is amended to read as follows:

7            “(a) COMPUTATION OF TAX.—

8            “(1) IN GENERAL.—The tax imposed by section 2501  
 9            for each calendar year shall be an amount equal to the ex-  
 10            cess of—

11            “(A) a tentative tax, computed under paragraph  
 12            (2), on the aggregate sum of the taxable gifts for such  
 13            calendar year and for each of the preceding calendar  
 14            periods, over

15            “(B) a tentative tax, computed under paragraph  
 16            (2), on the aggregate sum of the taxable gifts for each  
 17            of the preceding calendar periods.

18            “(2) RATE SCHEDULE.—

**“If the amount with respect to which The tentative tax is:  
 to which  
 the tentative tax to be com-  
 puted is:**

Not over \$10,000 .....	18% of such amount.
Over \$10,000 but not over \$20,000 .....	\$1,800, plus 20% of the excess over \$10,000.
Over \$20,000 but not over \$40,000 .....	\$3,800, plus 22% of the excess over \$20,000.
Over \$40,000 but not over \$60,000 .....	\$8,200, plus 24% of the excess over \$40,000.
Over \$60,000 but not over \$80,000 .....	\$13,000, plus 26% of the excess over \$60,000.
Over \$80,000 but not over \$100,000 .....	\$18,200, plus 28% of the excess over \$80,000.
Over \$100,000 but not over \$150,000 .....	\$23,800, plus 30% of the excess over \$100,000.
Over \$150,000 but not over \$250,000 .....	\$38,800, plus 32% of the excess over \$150,000.

**“If the amount with respect to which the tentative tax is computed is:**

Over \$250,000 but not over \$70,800, plus 34% of the excess over \$250,000.  
 Over \$500,000 ..... \$155,800, plus 35% of the excess over \$500,000.”.

1 (e) TREATMENT OF CERTAIN TRANSFERS IN TRUST.—  
 2 Section 2511 (relating to transfers in general) is amended by  
 3 adding at the end the following new subsection:

4 “(c) TREATMENT OF CERTAIN TRANSFERS IN TRUST.—  
 5 Notwithstanding any other provision of this section and except  
 6 as provided in regulations, a transfer in trust shall be treated  
 7 as a taxable gift under section 2503, unless the trust is treated  
 8 as wholly owned by the donor or the donor’s spouse under sub-  
 9 part E of part I of subchapter J of chapter 1.”.

10 (f) EFFECTIVE DATES.—

11 (1) SUBSECTIONS (a) AND (b).—The amendments  
 12 made by subsections (a) and (b) shall apply to estates of  
 13 decedents dying, and gifts made, after December 31, 2001.

14 (2) SUBSECTION (c).—The amendment made by sub-  
 15 section (c) shall apply to estates of decedents dying, and  
 16 gifts made, after December 31, 2002.

17 (3) SUBSECTIONS (d) AND (e).—The amendments  
 18 made by subsections (d) and (e) shall apply to gifts made  
 19 after December 31, 2009.

20 **Subtitle C—Increase in Exemption**  
 21 **Amounts**

22 **SEC. 521. INCREASE IN EXEMPTION EQUIVALENT OF**  
 23 **UNIFIED CREDIT, LIFETIME GIFTS EXEMP-**  
 24 **TION, AND GST EXEMPTION AMOUNTS.**

25 (a) IN GENERAL.—Subsection (c) of section 2010 (relating  
 26 to applicable credit amount) is amended by striking the table  
 27 and inserting the following new table:

<b>“In the case of estates of decedents dying during:</b>	<b>The applicable exclusion amount is:</b>
2002 and 2003 .....	\$1,000,000
2004 and 2005 .....	\$1,500,000

2006, 2007, and 2008 .....	\$2,000,000
2009 .....	\$3,500,000.”.

1 (b) LIFETIME GIFT EXEMPTION INCREASED TO  
2 \$1,000,000.—

3 (1) FOR PERIODS BEFORE ESTATE TAX REPEAL.—  
4 Paragraph (1) of section 2505(a) (relating to unified credit  
5 against gift tax) is amended by inserting “(determined as  
6 if the applicable exclusion amount were \$1,000,000)” after  
7 “calendar year”.

8 (2) FOR PERIODS AFTER ESTATE TAX REPEAL.—Para-  
9 graph (1) of section 2505(a) (relating to unified credit  
10 against gift tax), as amended by paragraph (1), is amended  
11 to read as follows:

12 “(1) the amount of the tentative tax which would be  
13 determined under the rate schedule set forth in section  
14 2502(a)(2) if the amount with respect to which such ten-  
15 tative tax is to be computed were \$1,000,000, reduced by”.

16 (c) GST EXEMPTION.—

17 (1) IN GENERAL.—Subsection (a) of 2631 (relating to  
18 GST exemption) is amended by striking “of \$1,000,000”  
19 and inserting “amount”.

20 (2) EXEMPTION AMOUNT.—Subsection (c) of section  
21 2631 is amended to read as follows:

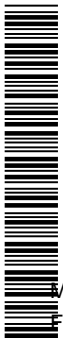
22 “(c) GST EXEMPTION AMOUNT.—For purposes of sub-  
23 section (a), the GST exemption amount for any calendar year  
24 shall be equal to the applicable exclusion amount under section  
25 2010(c) for such calendar year.”.

26 (d) REPEAL OF SPECIAL BENEFIT FOR FAMILY-OWNED  
27 BUSINESS INTERESTS.—Section 2057 (relating to family-  
28 owned business interests) is amended by adding at the end the  
29 following new subsection:

30 “(j) TERMINATION.—This section shall not apply to the  
31 estates of decedents dying after December 31, 2003.”.

32 (e) EFFECTIVE DATES.—

33 (1) IN GENERAL.—Except as provided in paragraphs  
34 (2) and (3), the amendments made by this section shall



1 apply to estates of decedents dying, and gifts made, after  
2 December 31, 2001.

3 (2) SUBSECTION (b)(2).—The amendments made by  
4 subsection (b)(2) shall apply to gifts made after December  
5 31, 2009.

6 (3) SUBSECTIONS (c) AND (d).—The amendments  
7 made by subsections (c) and (d) shall apply to estates of  
8 decedents dying, and generation-skipping transfers, after  
9 December 31, 2003.

## 10 **Subtitle D—Credit for State Death** 11 **Taxes**

### 12 **SEC. 531. REDUCTION OF CREDIT FOR STATE DEATH** 13 **TAXES.**

14 (a) IN GENERAL.—Section 2011(b) (relating to amount of  
15 credit) is amended—

16 (1) by striking “CREDIT.—The credit allowed” and in-  
17 serting “CREDIT.—

18 “(1) IN GENERAL.—Except as provided in paragraph  
19 (2), the credit allowed”,

20 (2) by striking “For purposes” and inserting the fol-  
21 lowing:

22 “(3) ADJUSTED TAXABLE ESTATE.—For purposes”,  
23 and

24 (3) by inserting after paragraph (1) the following new  
25 paragraph:

26 “(2) REDUCTION OF MAXIMUM CREDIT.—

27 “(A) IN GENERAL.—In the case of estates of dece-  
28 dents dying after December 31, 2001, the credit al-  
29 lowed by this section shall not exceed the applicable  
30 percentage of the credit otherwise determined under  
31 paragraph (1).

32 “(B) APPLICABLE PERCENTAGE.—

<b>“In the case of estates of decedents dying during:</b>	<b>The applicable percentage is:</b>
2002 .....	75 percent
2003 .....	50 percent
2004 .....	25 percent.”.



1 (b) EFFECTIVE DATE.—The amendments made by this  
2 subsection shall apply to estates of decedents dying after De-  
3 cember 31, 2001.

4 **SEC. 532. CREDIT FOR STATE DEATH TAXES REPLACED**  
5 **WITH DEDUCTION FOR SUCH TAXES.**

6 (a) REPEAL OF CREDIT.—Section 2011 (relating to credit  
7 for State death taxes) is amended by adding at the end the fol-  
8 lowing new subsection:

9 “(g) TERMINATION.—This section shall not apply to the  
10 estates of decedents dying after December 31, 2004.”.

11 (b) DEDUCTION FOR STATE DEATH TAXES.—Part IV of  
12 subchapter A of chapter 11 is amended by adding at the end  
13 the following new section:

14 **“SEC. 2058. STATE DEATH TAXES.**

15 “(a) ALLOWANCE OF DEDUCTION.—For purposes of the  
16 tax imposed by section 2001, the value of the taxable estate  
17 shall be determined by deducting from the value of the gross  
18 estate the amount of any estate, inheritance, legacy, or succes-  
19 sion taxes actually paid to any State or the District of Colum-  
20 bia, in respect of any property included in the gross estate (not  
21 including any such taxes paid with respect to the estate of a  
22 person other than the decedent).

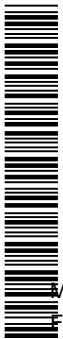
23 “(b) PERIOD OF LIMITATIONS.—The deduction allowed by  
24 this section shall include only such taxes as were actually paid  
25 and deduction therefor claimed before the later of—

26 “(1) 4 years after the filing of the return required by  
27 section 6018, or

28 “(2) if—

29 “(A) a petition for redetermination of a deficiency  
30 has been filed with the Tax Court within the time pre-  
31 scribed in section 6213(a), the expiration of 60 days  
32 after the decision of the Tax Court becomes final,

33 “(B) an extension of time has been granted under  
34 section 6161 or 6166 for payment of the tax shown on  
35 the return, or of a deficiency, the date of the expiration  
36 of the period of the extension, or



1 “(C) a claim for refund or credit of an overpay-  
2 ment of tax imposed by this chapter has been filed  
3 within the time prescribed in section 6511, the latest  
4 of the expiration of—

5 “(i) 60 days from the date of mailing by cer-  
6 tified mail or registered mail by the Secretary to  
7 the taxpayer of a notice of the disallowance of any  
8 part of such claim,

9 “(ii) 60 days after a decision by any court of  
10 competent jurisdiction becomes final with respect to  
11 a timely suit instituted upon such claim, or

12 “(iii) 2 years after a notice of the waiver of  
13 disallowance is filed under section 6532(a)(3).

14 Notwithstanding sections 6511 and 6512, refund based on the  
15 deduction may be made if the claim for refund is filed within  
16 the period provided in the preceding sentence. Any such refund  
17 shall be made without interest.”.

18 (c) CONFORMING AMENDMENTS.—

19 (1) Subsection (a) of section 2012 is amended by  
20 striking “the credit for State death taxes provided by sec-  
21 tion 2011 and”.

22 (2) Subparagraph (A) of section 2013(c)(1) is amend-  
23 ed by striking “2011,”.

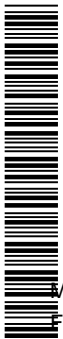
24 (3) Paragraph (2) of section 2014(b) is amended by  
25 striking “, 2011,”.

26 (4) Sections 2015 and 2016 are each amended by  
27 striking “2011 or”.

28 (5) Subsection (d) of section 2053 is amended to read  
29 as follows:

30 “(d) CERTAIN FOREIGN DEATH TAXES.—

31 “(1) IN GENERAL.—Notwithstanding the provisions of  
32 subsection (c)(1)(B), for purposes of the tax imposed by  
33 section 2001, the value of the taxable estate may be deter-  
34 mined, if the executor so elects before the expiration of the  
35 period of limitation for assessment provided in section  
36 6501, by deducting from the value of the gross estate the

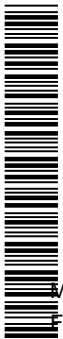


1 amount (as determined in accordance with regulations pre-  
2 scribed by the Secretary) of any estate, succession, legacy,  
3 or inheritance tax imposed by and actually paid to any for-  
4 eign country, in respect of any property situated within  
5 such foreign country and included in the gross estate of a  
6 citizen or resident of the United States, upon a transfer by  
7 the decedent for public, charitable, or religious uses de-  
8 scribed in section 2055. The determination under this para-  
9 graph of the country within which property is situated shall  
10 be made in accordance with the rules applicable under sub-  
11 chapter B (sec. 2101 and following) in determining whether  
12 property is situated within or without the United States.  
13 Any election under this paragraph shall be exercised in ac-  
14 cordance with regulations prescribed by the Secretary.

15 “(2) CONDITION FOR ALLOWANCE OF DEDUCTION.—  
16 No deduction shall be allowed under paragraph (1) for a  
17 foreign death tax specified therein unless the decrease in  
18 the tax imposed by section 2001 which results from the de-  
19 duction provided in paragraph (1) will inure solely for the  
20 benefit of the public, charitable, or religious transferees de-  
21 scribed in section 2055 or section 2106(a)(2). In any case  
22 where the tax imposed by section 2001 is equitably appor-  
23 tioned among all the transferees of property included in the  
24 gross estate, including those described in sections 2055 and  
25 2106(a)(2) (taking into account any exemptions, credits, or  
26 deductions allowed by this chapter), in determining such  
27 decrease, there shall be disregarded any decrease in the  
28 Federal estate tax which any transferees other than those  
29 described in sections 2055 and 2106(a)(2) are required to  
30 pay.

31 “(3) EFFECT ON CREDIT FOR FOREIGN DEATH TAXES  
32 OF DEDUCTION UNDER THIS SUBSECTION.—

33 “(A) ELECTION.—An election under this sub-  
34 section shall be deemed a waiver of the right to claim  
35 a credit, against the Federal estate tax, under a death  
36 tax convention with any foreign country for any tax or



1 portion thereof in respect of which a deduction is taken  
2 under this subsection.

3 “(B) CROSS REFERENCE.—

**“See section 2014(f) for the effect of a deduction taken under this paragraph on the credit for foreign death taxes.”.**

4 (6) Subparagraph (A) of section 2056A(b)(10) is  
5 amended—

6 (A) by striking “2011,” and

7 (B) by inserting “2058,” after “2056,”.

8 (7)(A) Subsection (a) of section 2102 is amended to  
9 read as follows:

10 “(a) IN GENERAL.—The tax imposed by section 2101  
11 shall be credited with the amounts determined in accordance  
12 with sections 2012 and 2013 (relating to gift tax and tax on  
13 prior transfers).”.

14 (B) Section 2102 is amended by striking subsection  
15 (b) and by redesignating subsection (c) as subsection (b).

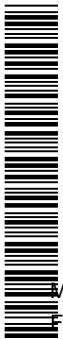
16 (C) Section 2102(b)(5) (as redesignated by subpara-  
17 graph (B)) and section 2107(c)(3) are each amended by  
18 striking “2011 to 2013, inclusive,” and inserting “2012  
19 and 2013”.

20 (8) Subsection (a) of section 2106 is amended by add-  
21 ing at the end the following new paragraph:

22 “(4) STATE DEATH TAXES.—The amount which bears  
23 the same ratio to the State death taxes as the value of the  
24 property, as determined for purposes of this chapter, upon  
25 which State death taxes were paid and which is included  
26 in the gross estate under section 2103 bears to the value  
27 of the total gross estate under section 2103. For purposes  
28 of this paragraph, the term ‘State death taxes’ means the  
29 taxes described in section 2011(a).”.

30 (9) Section 2201 is amended—

31 (A) by striking “as defined in section 2011(d)”,  
32 and



1 (B) by adding at the end the following new flush  
2 sentence:

3 “For purposes of this section, the additional estate tax is the  
4 difference between the tax imposed by section 2001 or 2101  
5 and the amount equal to 125 percent of the maximum credit  
6 provided by section 2011(b), as in effect before its repeal by  
7 the Economic Growth and Tax Relief Reconciliation Act of  
8 2001.”.

9 (10) Section 2604 (relating to credit for certain State  
10 taxes) is amended by adding at the end the following new  
11 subsection:

12 “(c) TERMINATION.—This section shall not apply to the  
13 generation-skipping transfers after December 31, 2004.”.

14 (11) Paragraph (2) of section 6511(i) is amended by  
15 striking “2011(c), 2014(b),” and inserting “2014(b)”.

16 (12) Subsection (c) of section 6612 is amended by  
17 striking “section 2011(c) (relating to refunds due to credit  
18 for State taxes),”.

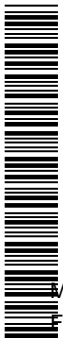
19 (13) The table of sections for part II of subchapter A  
20 of chapter 11 is amended by striking the item relating to  
21 section 2011.

22 (14) The table of sections for part IV of subchapter  
23 A of chapter 11 is amended by adding at the end the fol-  
24 lowing new item:

“Sec. 2058. State death taxes.”.

25 (15) The table of sections for subchapter A of chapter  
26 13 is amended by striking the item relating to section  
27 2604.

28 (d) EFFECTIVE DATE.—The amendments made by this  
29 section shall apply to estates of decedents dying, and genera-  
30 tion-skipping transfers, after December 31, 2004.



1     **Subtitle E—Carryover Basis at Death;**  
2         **Other Changes Taking Effect With**  
3         **Repeal**

4     **SEC. 541. TERMINATION OF STEP-UP IN BASIS AT**  
5         **DEATH.**

6         Section 1014 (relating to basis of property acquired from  
7     a decedent) is amended by adding at the end the following new  
8     subsection:

9         “(f) TERMINATION.—This section shall not apply with re-  
10     spect to decedents dying after December 31, 2009.”.

11     **SEC. 542. TREATMENT OF PROPERTY ACQUIRED FROM A**  
12         **DECEDENT DYING AFTER DECEMBER 31,**  
13         **2009.**

14         (a) GENERAL RULE.—Part II of subchapter O of chapter  
15     1 (relating to basis rules of general application) is amended by  
16     inserting after section 1021 the following new section:

17     **“SEC. 1022. TREATMENT OF PROPERTY ACQUIRED FROM**  
18         **A DECEDENT DYING AFTER DECEMBER 31,**  
19         **2009.**

20         “(a) IN GENERAL.—Except as otherwise provided in this  
21     section—

22             “(1) property acquired from a decedent dying after  
23     December 31, 2009, shall be treated for purposes of this  
24     subtitle as transferred by gift, and

25             “(2) the basis of the person acquiring property from  
26     such a decedent shall be the lesser of—

27                 “(A) the adjusted basis of the decedent, or

28                 “(B) the fair market value of the property at the  
29     date of the decedent’s death.

30         “(b) BASIS INCREASE FOR CERTAIN PROPERTY.—

31             “(1) IN GENERAL.—In the case of property to which  
32     this subsection applies, the basis of such property under  
33     subsection (a) shall be increased by its basis increase under  
34     this subsection.

35             “(2) BASIS INCREASE.—For purposes of this  
36     subsection—

1           “(A) IN GENERAL.—The basis increase under this  
2           subsection for any property is the portion of the aggregate  
3           basis increase which is allocated to the property  
4           pursuant to this section.

5           “(B) AGGREGATE BASIS INCREASE.—In the case  
6           of any estate, the aggregate basis increase under this  
7           subsection is \$1,300,000.

8           “(C) LIMIT INCREASED BY UNUSED BUILT-IN  
9           LOSSES AND LOSS CARRYOVERS.—The limitation under  
10          subparagraph (B) shall be increased by—

11          “(i) the sum of the amount of any capital loss  
12          carryover under section 1212(b), and the amount  
13          of any net operating loss carryover under section  
14          172, which would (but for the decedent’s death) be  
15          carried from the decedent’s last taxable year to a  
16          later taxable year of the decedent, plus

17          “(ii) the sum of the amount of any losses that  
18          would have been allowable under section 165 if the  
19          property acquired from the decedent had been sold  
20          at fair market value immediately before the decedent’s death.

21          “(3) DECEDENT NONRESIDENTS WHO ARE NOT CITI-  
22          ZENS OF THE UNITED STATES.—In the case of a decedent  
23          nonresident not a citizen of the United States—

24          “(A) paragraph (2)(B) shall be applied by substituting ‘\$60,000’ for ‘\$1,300,000’, and

25          “(B) paragraph (2)(C) shall not apply.

26          “(c) ADDITIONAL BASIS INCREASE FOR PROPERTY AC-  
27          QUIRED BY SURVIVING SPOUSE.—

28          “(1) IN GENERAL.—In the case of property to which  
29          this subsection applies and which is qualified spousal prop-  
30          erty, the basis of such property under subsection (a) (as in-  
31          creased under subsection (b)) shall be increased by its  
32          spousal property basis increase.

33          “(2) SPOUSAL PROPERTY BASIS INCREASE.—For pur-  
34          poses of this subsection—



1           “(A) IN GENERAL.—The spousal property basis  
2           increase for property referred to in paragraph (1) is  
3           the portion of the aggregate spousal property basis in-  
4           crease which is allocated to the property pursuant to  
5           this section.

6           “(B) AGGREGATE SPOUSAL PROPERTY BASIS IN-  
7           CREASE.—In the case of any estate, the aggregate  
8           spousal property basis increase is \$3,000,000.

9           “(3) QUALIFIED SPOUSAL PROPERTY.—For purposes  
10          of this subsection, the term ‘qualified spousal property’  
11          means—

12           “(A) outright transfer property, and

13           “(B) qualified terminable interest property.

14          “(4) OUTRIGHT TRANSFER PROPERTY.—For purposes  
15          of this subsection—

16           “(A) IN GENERAL.—The term ‘outright transfer  
17           property’ means any interest in property acquired from  
18           the decedent by the decedent’s surviving spouse.

19           “(B) EXCEPTION.—Subparagraph (A) shall not  
20           apply where, on the lapse of time, on the occurrence of  
21           an event or contingency, or on the failure of an event  
22           or contingency to occur, an interest passing to the sur-  
23           viving spouse will terminate or fail—

24           “(i)(I) if an interest in such property passes or  
25           has passed (for less than an adequate and full con-  
26           sideration in money or money’s worth) from the de-  
27           cedent to any person other than such surviving  
28           spouse (or the estate of such spouse), and

29           “(II) if by reason of such passing such person  
30           (or his heirs or assigns) may possess or enjoy any  
31           part of such property after such termination or  
32           failure of the interest so passing to the surviving  
33           spouse, or

34           “(ii) if such interest is to be acquired for the  
35           surviving spouse, pursuant to directions of the de-  
36           cedent, by his executor or by the trustee of a trust.





1 For purposes of this subparagraph, an interest shall  
2 not be considered as an interest which will terminate  
3 or fail merely because it is the ownership of a bond,  
4 note, or similar contractual obligation, the discharge of  
5 which would not have the effect of an annuity for life  
6 or for a term.

7 “(C) INTEREST OF SPOUSE CONDITIONAL ON SUR-  
8 VIVAL FOR LIMITED PERIOD.—For purposes of this  
9 paragraph, an interest passing to the surviving spouse  
10 shall not be considered as an interest which will termi-  
11 nate or fail on the death of such spouse if—

12 “(i) such death will cause a termination or  
13 failure of such interest only if it occurs within a pe-  
14 riod not exceeding 6 months after the decedent’s  
15 death, or only if it occurs as a result of a common  
16 disaster resulting in the death of the decedent and  
17 the surviving spouse, or only if it occurs in the case  
18 of either such event, and

19 “(ii) such termination or failure does not in  
20 fact occur.

21 “(5) QUALIFIED TERMINABLE INTEREST PROPERTY.—  
22 For purposes of this subsection—

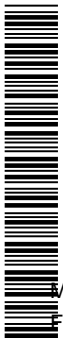
23 “(A) IN GENERAL.—The term ‘qualified terminable  
24 interest property’ means property—

25 “(i) which passes from the decedent, and

26 “(ii) in which the surviving spouse has a quali-  
27 fying income interest for life.

28 “(B) QUALIFYING INCOME INTEREST FOR LIFE.—  
29 The surviving spouse has a qualifying income interest  
30 for life if—

31 “(i) the surviving spouse is entitled to all the  
32 income from the property, payable annually or at  
33 more frequent intervals, or has a usufruct interest  
34 for life in the property, and



1           “(ii) no person has a power to appoint any  
2           part of the property to any person other than the  
3           surviving spouse.

4           Clause (ii) shall not apply to a power exercisable only  
5           at or after the death of the surviving spouse. To the  
6           extent provided in regulations, an annuity shall be  
7           treated in a manner similar to an income interest in  
8           property (regardless of whether the property from  
9           which the annuity is payable can be separately identi-  
10          fied).

11          “(C) PROPERTY INCLUDES INTEREST THEREIN.—  
12          The term ‘property’ includes an interest in property.

13          “(D) SPECIFIC PORTION TREATED AS SEPARATE  
14          PROPERTY.—A specific portion of property shall be  
15          treated as separate property. For purposes of the pre-  
16          ceding sentence, the term ‘specific portion’ only in-  
17          cludes a portion determined on a fractional or percent-  
18          age basis.

19          “(d) DEFINITIONS AND SPECIAL RULES FOR APPLICA-  
20          TION OF SUBSECTIONS (b) AND (c).—

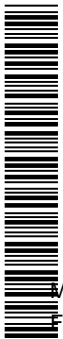
21          “(1) PROPERTY TO WHICH SUBSECTIONS (b) AND (c)  
22          APPLY.—

23          “(A) IN GENERAL.—The basis of property ac-  
24          quired from a decedent may be increased under sub-  
25          section (b) or (c) only if the property was owned by the  
26          decedent at the time of death.

27          “(B) RULES RELATING TO OWNERSHIP.—

28          “(i) JOINTLY HELD PROPERTY.—In the case  
29          of property which was owned by the decedent and  
30          another person as joint tenants with right of survi-  
31          vorship or tenants by the entirety—

32                  “(I) if the only such other person is the  
33                  surviving spouse, the decedent shall be treated  
34                  as the owner of only 50 percent of the prop-  
35                  erty,



1 “(II) in any case (to which subclause (I)  
2 does not apply) in which the decedent furnished  
3 consideration for the acquisition of the prop-  
4 erty, the decedent shall be treated as the owner  
5 to the extent of the portion of the property  
6 which is proportionate to such consideration,  
7 and

8 “(III) in any case (to which subclause (I)  
9 does not apply) in which the property has been  
10 acquired by gift, bequest, devise, or inheritance  
11 by the decedent and any other person as joint  
12 tenants with right of survivorship and their in-  
13 terests are not otherwise specified or fixed by  
14 law, the decedent shall be treated as the owner  
15 to the extent of the value of a fractional part  
16 to be determined by dividing the value of the  
17 property by the number of joint tenants with  
18 right of survivorship.

19 “(ii) REVOCABLE TRUSTS.—The decedent  
20 shall be treated as owning property transferred by  
21 the decedent during life to a qualified revocable  
22 trust (as defined in section 645(b)(1)).

23 “(iii) POWERS OF APPOINTMENT.—The dece-  
24 dent shall not be treated as owning any property  
25 by reason of holding a power of appointment with  
26 respect to such property.

27 “(iv) COMMUNITY PROPERTY.—Property which  
28 represents the surviving spouse’s one-half share of  
29 community property held by the decedent and the  
30 surviving spouse under the community property  
31 laws of any State or possession of the United  
32 States or any foreign country shall be treated for  
33 purposes of this section as owned by, and acquired  
34 from, the decedent if at least one-half of the whole  
35 of the community interest in such property is treat-



1 ed as owned by, and acquired from, the decedent  
2 without regard to this clause.

3 “(C) PROPERTY ACQUIRED BY DECEDENT BY GIFT  
4 WITHIN 3 YEARS OF DEATH.—

5 “(i) IN GENERAL.—Subsections (b) and (c)  
6 shall not apply to property acquired by the dece-  
7 dent by gift or by inter vivos transfer for less than  
8 adequate and full consideration in money or mon-  
9 ey’s worth during the 3-year period ending on the  
10 date of the decedent’s death.

11 “(ii) EXCEPTION FOR CERTAIN GIFTS FROM  
12 SPOUSE.—Clause (i) shall not apply to property ac-  
13 quired by the decedent from the decedent’s spouse  
14 unless, during such 3-year period, such spouse ac-  
15 quired the property in whole or in part by gift or  
16 by inter vivos transfer for less than adequate and  
17 full consideration in money or money’s worth.

18 “(D) STOCK OF CERTAIN ENTITIES.—Subsections  
19 (b) and (c) shall not apply to—

20 “(i) stock or securities of a foreign personal  
21 holding company,

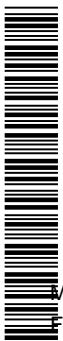
22 “(ii) stock of a DISC or former DISC,

23 “(iii) stock of a foreign investment company,  
24 or

25 “(iv) stock of a passive foreign investment  
26 company unless such company is a qualified elect-  
27 ing fund (as defined in section 1295) with respect  
28 to the decedent.

29 “(2) FAIR MARKET VALUE LIMITATION.—The adjust-  
30 ments under subsections (b) and (c) shall not increase the  
31 basis of any interest in property acquired from the dece-  
32 dent above its fair market value in the hands of the dece-  
33 dent as of the date of the decedent’s death.

34 “(3) ALLOCATION RULES.—



1           “(A) IN GENERAL.—The executor shall allocate  
2           the adjustments under subsections (b) and (c) on the  
3           return required by section 6018.

4           “(B) CHANGES IN ALLOCATION.—Any allocation  
5           made pursuant to subparagraph (A) may be changed  
6           only as provided by the Secretary.

7           “(4) INFLATION ADJUSTMENT OF BASIS ADJUSTMENT  
8           AMOUNTS.—

9           “(A) IN GENERAL.—In the case of decedents  
10          dying in a calendar year after 2010, the \$1,300,000,  
11          \$60,000, and \$3,000,000 dollar amounts in subsections  
12          (b) and (c)(2)(B) shall each be increased by an amount  
13          equal to the product of—

14               “(i) such dollar amount, and

15               “(ii) the cost-of-living adjustment determined  
16               under section 1(f)(3) for such calendar year, deter-  
17               mined by substituting ‘2009’ for ‘1992’ in subpara-  
18               graph (B) thereof.

19          “(B) ROUNDING.—If any increase determined  
20          under subparagraph (A) is not a multiple of—

21               “(i) \$100,000 in the case of the \$1,300,000  
22               amount,

23               “(ii) \$5,000 in the case of the \$60,000  
24               amount, and

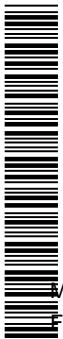
25               “(iii) \$250,000 in the case of the \$3,000,000  
26               amount,

27          such increase shall be rounded to the next lowest mul-  
28          tiple thereof.

29          “(e) PROPERTY ACQUIRED FROM THE DECEDENT.—For  
30          purposes of this section, the following property shall be consid-  
31          ered to have been acquired from the decedent:

32               “(1) Property acquired by bequest, devise, or inherit-  
33               ance, or by the decedent’s estate from the decedent.

34               “(2) Property transferred by the decedent during his  
35               lifetime—



1 “(A) to a qualified revocable trust (as defined in  
2 section 645(b)(1)), or

3 “(B) to any other trust with respect to which the  
4 decedent reserved the right to make any change in the  
5 enjoyment thereof through the exercise of a power to  
6 alter, amend, or terminate the trust.

7 “(3) Any other property passing from the decedent by  
8 reason of death to the extent that such property passed  
9 without consideration.

10 “(f) COORDINATION WITH SECTION 691.—This section  
11 shall not apply to property which constitutes a right to receive  
12 an item of income in respect of a decedent under section 691.

13 “(g) CERTAIN LIABILITIES DISREGARDED.—

14 “(1) IN GENERAL.—In determining whether gain is  
15 recognized on the acquisition of property—

16 “(A) from a decedent by a decedent’s estate or  
17 any beneficiary other than a tax-exempt beneficiary,  
18 and

19 “(B) from the decedent’s estate by any beneficiary  
20 other than a tax-exempt beneficiary,  
21 and in determining the adjusted basis of such property, li-  
22 abilities in excess of basis shall be disregarded.

23 “(2) TAX-EXEMPT BENEFICIARY.—For purposes of  
24 paragraph (1), the term ‘tax-exempt beneficiary’ means—

25 “(A) the United States, any State or political sub-  
26 division thereof, any possession of the United States,  
27 any Indian tribal government (within the meaning of  
28 section 7871), or any agency or instrumentality of any  
29 of the foregoing,

30 “(B) an organization (other than a cooperative de-  
31 scribed in section 521) which is exempt from tax im-  
32 posed by chapter 1,

33 “(C) any foreign person or entity (within the  
34 meaning of section 168(h)(2)), and



1 “(D) to the extent provided in regulations, any  
2 person to whom property is transferred for the prin-  
3 cipal purpose of tax avoidance.

4 “(h) REGULATIONS.—The Secretary shall prescribe such  
5 regulations as may be necessary to carry out the purposes of  
6 this section.”.

7 (b) INFORMATION RETURNS, ETC.—

8 (1) LARGE TRANSFERS AT DEATH.—So much of sub-  
9 part C of part II of subchapter A of chapter 61 as precedes  
10 section 6019 is amended to read as follows:

11 **“Subpart C—Returns Relating to Transfers**  
12 **During Life or at Death**

“Sec. 6018. Returns relating to large transfers at death.

“Sec. 6019. Gift tax returns.

13 **“SEC. 6018. RETURNS RELATING TO LARGE TRANSFERS**  
14 **AT DEATH.**

15 “(a) IN GENERAL.—If this section applies to property ac-  
16 quired from a decedent, the executor of the estate of such dece-  
17 dent shall make a return containing the information specified  
18 in subsection (c) with respect to such property.

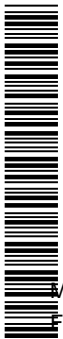
19 “(b) PROPERTY TO WHICH SECTION APPLIES.—

20 “(1) LARGE TRANSFERS.—This section shall apply to  
21 all property (other than cash) acquired from a decedent if  
22 the fair market value of such property acquired from the  
23 decedent exceeds the dollar amount applicable under sec-  
24 tion 1022(b)(2)(B) (without regard to section  
25 1022(b)(2)(C)).

26 “(2) TRANSFERS OF CERTAIN GIFTS RECEIVED BY DE-  
27 CEDENT WITHIN 3 YEARS OF DEATH.—This section shall  
28 apply to any appreciated property acquired from the dece-  
29 dent if—

30 “(A) subsections (b) and (c) of section 1022 do  
31 not apply to such property by reason of section  
32 1022(d)(1)(C), and

33 “(B) such property was required to be included on  
34 a return required to be filed under section 6019.



1           “(3) NONRESIDENTS NOT CITIZENS OF THE UNITED  
2 STATES.—In the case of a decedent who is a nonresident  
3 not a citizen of the United States, paragraphs (1) and (2)  
4 shall be applied—

5           “(A) by taking into account only—

6           “(i) tangible property situated in the United  
7 States, and

8           “(ii) other property acquired from the dece-  
9 dent by a United States person, and

10          “(B) by substituting the dollar amount applicable  
11 under section 1022(b)(3) for the dollar amount re-  
12 ferred to in paragraph (1).

13          “(4) RETURNS BY TRUSTEES OR BENEFICIARIES.—If  
14 the executor is unable to make a complete return as to any  
15 property acquired from or passing from the decedent, the  
16 executor shall include in the return a description of such  
17 property and the name of every person holding a legal or  
18 beneficial interest therein. Upon notice from the Secretary,  
19 such person shall in like manner make a return as to such  
20 property.

21          “(c) INFORMATION REQUIRED TO BE FURNISHED.—The  
22 information specified in this subsection with respect to any  
23 property acquired from the decedent is—

24          “(1) the name and TIN of the recipient of such prop-  
25 erty,

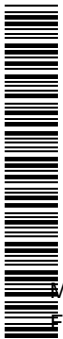
26          “(2) an accurate description of such property,

27          “(3) the adjusted basis of such property in the hands  
28 of the decedent and its fair market value at the time of  
29 death,

30          “(4) the decedent’s holding period for such property,

31          “(5) sufficient information to determine whether any  
32 gain on the sale of the property would be treated as ordi-  
33 nary income,

34          “(6) the amount of basis increase allocated to the  
35 property under subsection (b) or (c) of section 1022, and





1           “(7) such other information as the Secretary may by  
2 regulations prescribe.

3           “(d) PROPERTY ACQUIRED FROM DECEDENT.—For pur-  
4 poses of this section, section 1022 shall apply for purposes of  
5 determining the property acquired from a decedent.

6           “(e) STATEMENTS TO BE FURNISHED TO CERTAIN PER-  
7 SONS.—Every person required to make a return under sub-  
8 section (a) shall furnish to each person whose name is required  
9 to be set forth in such return (other than the person required  
10 to make such return) a written statement showing—

11           “(1) the name, address, and phone number of the per-  
12 son required to make such return, and

13           “(2) the information specified in subsection (c) with  
14 respect to property acquired from, or passing from, the de-  
15 cedent to the person required to receive such statement.

16 The written statement required under the preceding sentence  
17 shall be furnished not later than 30 days after the date that  
18 the return required by subsection (a) is filed.”.

19           “(2) GIFTS.—Section 6019 (relating to gift tax returns)  
20 is amended—

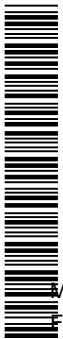
21           (A) by striking “Any individual” and inserting  
22 “(a) IN GENERAL.—Any individual”, and

23           (B) by adding at the end the following new sub-  
24 section:

25           “(b) STATEMENTS TO BE FURNISHED TO CERTAIN PER-  
26 SONS.—Every person required to make a return under sub-  
27 section (a) shall furnish to each person whose name is required  
28 to be set forth in such return (other than the person required  
29 to make such return) a written statement showing—

30           “(1) the name, address, and phone number of the per-  
31 son required to make such return, and

32           “(2) the information specified in such return with re-  
33 spect to property received by the person required to receive  
34 such statement.



1 The written statement required under the preceding sentence  
2 shall be furnished not later than 30 days after the date that  
3 the return required by subsection (a) is filed.”.

4 (3) TIME FOR FILING SECTION 6018 RETURNS.—

5 (A) RETURNS RELATING TO LARGE TRANSFERS AT  
6 DEATH.—Subsection (a) of section 6075 is amended to  
7 read as follows:

8 “(a) RETURNS RELATING TO LARGE TRANSFERS AT  
9 DEATH.—The return required by section 6018 with respect to  
10 a decedent shall be filed with the return of the tax imposed by  
11 chapter 1 for the decedent’s last taxable year or such later date  
12 specified in regulations prescribed by the Secretary.”.

13 (B) CONFORMING AMENDMENTS.—Paragraph (3)  
14 of section 6075(b) is amended—

15 (i) by striking “ESTATE TAX RETURN” in the  
16 heading and inserting “SECTION 6018 RETURN”,  
17 and

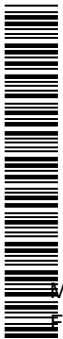
18 (ii) by striking “(relating to estate tax re-  
19 turns)” and inserting “(relating to returns relating  
20 to large transfers at death)”.

21 (4) PENALTIES.—Part I of subchapter B of chapter  
22 68 (relating to assessable penalties) is amended by adding  
23 at the end the following new section:

24 **“SEC. 6716. FAILURE TO FILE INFORMATION WITH RE-**  
25 **SPECT TO CERTAIN TRANSFERS AT DEATH**  
26 **AND GIFTS.**

27 “(a) INFORMATION REQUIRED TO BE FURNISHED TO  
28 THE SECRETARY.—Any person required to furnish any infor-  
29 mation under section 6018 who fails to furnish such infor-  
30 mation on the date prescribed therefor (determined with regard to  
31 any extension of time for filing) shall pay a penalty of \$10,000  
32 (\$500 in the case of information required to be furnished under  
33 section 6018(b)(2)) for each such failure.

34 “(b) INFORMATION REQUIRED TO BE FURNISHED TO  
35 BENEFICIARIES.—Any person required to furnish in writing to  
36 each person described in section 6018(e) or 6019(b) the infor-



1    mation required under such section who fails to furnish such  
2    information shall pay a penalty of \$50 for each such failure.

3       “(c) REASONABLE CAUSE EXCEPTION.—No penalty shall  
4    be imposed under subsection (a) or (b) with respect to any fail-  
5    ure if it is shown that such failure is due to reasonable cause.

6       “(d) INTENTIONAL DISREGARD.—If any failure under sub-  
7    section (a) or (b) is due to intentional disregard of the require-  
8    ments under sections 6018 and 6019(b), the penalty under  
9    such subsection shall be 5 percent of the fair market value (as  
10   of the date of death or, in the case of section 6019(b), the date  
11   of the gift) of the property with respect to which the informa-  
12   tion is required.

13       “(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Sub-  
14   chapter B of chapter 63 (relating to deficiency procedures for  
15   income, estate, gift, and certain excise taxes) shall not apply in  
16   respect of the assessment or collection of any penalty imposed  
17   by this section.”.

18       (5) CLERICAL AMENDMENTS.—

19           (A) The table of sections for part I of subchapter  
20   B of chapter 68 is amended by adding at the end the  
21   following new item:

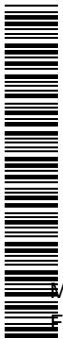
      “Sec. 6716. Failure to file information with respect to certain  
      transfers at death and gifts.”.

22           (B) The item relating to subpart C in the table of  
23   subparts for part II of subchapter A of chapter 61 is  
24   amended to read as follows:

      “Subpart C. Returns relating to transfers during life or at  
      death.”.

25       (c) EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESI-  
26   DENCE MADE AVAILABLE TO HEIR OF DECEDENT IN CERTAIN  
27   CASES.—Subsection (d) of section 121 (relating to exclusion of  
28   gain from sale of principal residence) is amended by adding at  
29   the end the following new paragraph:

30           “(9) PROPERTY ACQUIRED FROM A DECEDENT.—The  
31   exclusion under this section shall apply to property sold  
32   by—



1 “(A) the estate of a decedent,

2 “(B) any individual who acquired such property  
3 from the decedent (within the meaning of section  
4 1022), and

5 “(C) a trust which, immediately before the death  
6 of the decedent, was a qualified revocable trust (as de-  
7 fined in section 645(b)(1)) established by the decedent,  
8 determined by taking into account the ownership and use  
9 by the decedent.”.

10 (d) TRANSFERS OF APPRECIATED CARRYOVER BASIS  
11 PROPERTY TO SATISFY PECUNIARY BEQUEST.—

12 (1) IN GENERAL.—Section 1040 (relating to transfer  
13 of certain farm, etc., real property) is amended to read as  
14 follows:

15 **“SEC. 1040. USE OF APPRECIATED CARRYOVER BASIS**  
16 **PROPERTY TO SATISFY PECUNIARY BE-**  
17 **QUEST.**

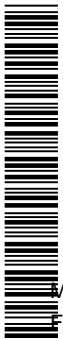
18 “(a) IN GENERAL.—If the executor of the estate of any  
19 decedent satisfies the right of any person to receive a pecuniary  
20 bequest with appreciated property, then gain on such exchange  
21 shall be recognized to the estate only to the extent that, on the  
22 date of such exchange, the fair market value of such property  
23 exceeds such value on the date of death.

24 “(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the ex-  
25 tent provided in regulations prescribed by the Secretary, a rule  
26 similar to the rule provided in subsection (a) shall apply  
27 where—

28 “(1) by reason of the death of the decedent, a person  
29 has a right to receive from a trust a specific dollar amount  
30 which is the equivalent of a pecuniary bequest, and

31 “(2) the trustee of a trust satisfies such right with  
32 property.

33 “(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE DE-  
34 SCRIBED IN SUBSECTION (a) OR (b).—The basis of property ac-  
35 quired in an exchange with respect to which gain realized is not  
36 recognized by reason of subsection (a) or (b) shall be the basis



1 of such property immediately before the exchange increased by  
2 the amount of the gain recognized to the estate or trust on the  
3 exchange.”.

4 (2) The item relating to section 1040 in the table of  
5 sections for part III of subchapter O of chapter 1 is  
6 amended to read as follows:

“Sec. 1040. Use of appreciated carryover basis property to  
satisfy pecuniary bequest.”.

7 (e) AMENDMENTS RELATED TO CARRYOVER BASIS.—

8 (1) RECOGNITION OF GAIN ON TRANSFERS TO NON-  
9 RESIDENTS.—

10 (A) Subsection (a) of section 684 is amended by  
11 inserting “or to a nonresident alien” after “or trust”.

12 (B) Subsection (b) of section 684 is amended to  
13 read as follows:

14 “(b) EXCEPTIONS.—

15 “(1) TRANSFERS TO CERTAIN TRUSTS.—Subsection  
16 (a) shall not apply to a transfer to a trust by a United  
17 States person to the extent that any United States person  
18 is treated as the owner of such trust under section 671.

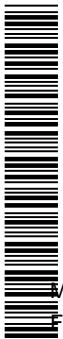
19 “(2) LIFETIME TRANSFERS TO NONRESIDENT  
20 ALIENS.—Subsection (a) shall not apply to a lifetime trans-  
21 fer to a nonresident alien.”.

22 (C) The section heading for section 684 is amend-  
23 ed by inserting “**AND NONRESIDENT ALIENS**” after  
24 “**ESTATES**”.

25 (D) The item relating to section 684 in the table  
26 of sections for subpart F of part I of subchapter J of  
27 chapter 1 is amended by inserting “and nonresident  
28 aliens” after “estates”.

29 (2) CAPITAL GAIN TREATMENT FOR INHERITED ART  
30 WORK OR SIMILAR PROPERTY.—

31 (A) IN GENERAL.—Subparagraph (C) of section  
32 1221(a)(3) (defining capital asset) is amended by in-  
33 serting “(other than by reason of section 1022)” after  
34 “is determined”.



1 (B) COORDINATION WITH SECTION 170.—Para-  
2 graph (1) of section 170(e) (relating to certain con-  
3 tributions of ordinary income and capital gain prop-  
4 erty) is amended by adding at the end the following:  
5 “For purposes of this paragraph, the determination of  
6 whether property is a capital asset shall be made with-  
7 out regard to the exception contained in section  
8 1221(a)(3)(C) for basis determined under section  
9 1022.”.

10 (3) DEFINITION OF EXECUTOR.—Section 7701(a) (re-  
11 lating to definitions) is amended by adding at the end the  
12 following:

13 “(47) EXECUTOR.—The term ‘executor’ means the ex-  
14 ecutor or administrator of the decedent, or, if there is no  
15 executor or administrator appointed, qualified, and acting  
16 within the United States, then any person in actual or con-  
17 structive possession of any property of the decedent.”.

18 (4) CERTAIN TRUSTS.—Subparagraph (A) of section  
19 4947(a)(2) is amended by inserting “642(e),” after  
20 “170(f)(2)(B),”.

21 (5) OTHER AMENDMENTS.—

22 (A) Section 1246 is amended by striking sub-  
23 section (e).

24 (B) Subsection (e) of section 1291 is amended—

25 (i) by striking “(e),”; and

26 (ii) by striking “; except that” and all that fol-  
27 lows and inserting a period.

28 (C) Section 1296 is amended by striking sub-  
29 section (i).

30 (6) CLERICAL AMENDMENT.—The table of sections for  
31 part II of subchapter O of chapter 1 is amended by insert-  
32 ing after the item relating to section 1021 the following  
33 new item:

“Sec. 1022. Treatment of property acquired from a decedent  
dying after December 31, 2009.”.

34 (f) EFFECTIVE DATE.—



1 (1) IN GENERAL.—Except as provided in paragraph  
2 (2), the amendments made by this section shall apply to es-  
3 tates of decedents dying after December 31, 2009.

4 (2) TRANSFERS TO NONRESIDENTS.—The amend-  
5 ments made by subsection (e)(1) shall apply to transfers  
6 after December 31, 2009.

7 (3) SECTION 4947.—The amendment made by sub-  
8 section (e)(4) shall apply to deductions for taxable years  
9 beginning after December 31, 2009.

## 10 **Subtitle F—Conservation Easements**

### 11 **SEC. 551. EXPANSION OF ESTATE TAX RULE FOR CON-** 12 **SERVATION EASEMENTS.**

13 (a) REPEAL OF CERTAIN RESTRICTIONS ON WHERE LAND  
14 IS LOCATED.—Clause (i) of section 2031(c)(8)(A) (defining  
15 land subject to a qualified conservation easement) is amended  
16 to read as follows:

17 “(i) which is located in the United States or  
18 any possession of the United States,”.

19 (b) CLARIFICATION OF DATE FOR DETERMINING VALUE  
20 OF LAND AND EASEMENT.—Section 2031(c)(2) (defining appli-  
21 cable percentage) is amended by adding at the end the fol-  
22 lowing new sentence: “The values taken into account under the  
23 preceding sentence shall be such values as of the date of the  
24 contribution referred to in paragraph (8)(B).”.

25 (c) EFFECTIVE DATE.—The amendments made by this  
26 section shall apply to estates of decedents dying after December  
27 31, 2000.

## 28 **Subtitle G—Modifications of** 29 **Generation-Skipping Transfer Tax**

### 30 **SEC. 561. DEEMED ALLOCATION OF GST EXEMPTION TO** 31 **LIFETIME TRANSFERS TO TRUSTS; RETRO-** 32 **ACTIVE ALLOCATIONS.**

33 (a) IN GENERAL.—Section 2632 (relating to special rules  
34 for allocation of GST exemption) is amended by redesignating  
35 subsection (c) as subsection (e) and by inserting after sub-  
36 section (b) the following new subsections:



1           “(c) DEEMED ALLOCATION TO CERTAIN LIFETIME  
2 TRANSFERS TO GST TRUSTS.—

3           “(1) IN GENERAL.—If any individual makes an indi-  
4 rect skip during such individual’s lifetime, any unused por-  
5 tion of such individual’s GST exemption shall be allocated  
6 to the property transferred to the extent necessary to make  
7 the inclusion ratio for such property zero. If the amount of  
8 the indirect skip exceeds such unused portion, the entire  
9 unused portion shall be allocated to the property trans-  
10 ferred.

11           “(2) UNUSED PORTION.—For purposes of paragraph  
12 (1), the unused portion of an individual’s GST exemption  
13 is that portion of such exemption which has not previously  
14 been—

15           “(A) allocated by such individual,

16           “(B) treated as allocated under subsection (b)  
17 with respect to a direct skip occurring during or before  
18 the calendar year in which the indirect skip is made,  
19 or

20           “(C) treated as allocated under paragraph (1)  
21 with respect to a prior indirect skip.

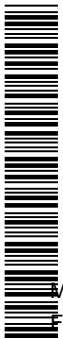
22           “(3) DEFINITIONS.—

23           “(A) INDIRECT SKIP.—For purposes of this sub-  
24 section, the term ‘indirect skip’ means any transfer of  
25 property (other than a direct skip) subject to the tax  
26 imposed by chapter 12 made to a GST trust.

27           “(B) GST TRUST.—The term ‘GST trust’ means  
28 a trust that could have a generation-skipping transfer  
29 with respect to the transferor unless—

30           “(i) the trust instrument provides that more  
31 than 25 percent of the trust corpus must be dis-  
32 tributed to or may be withdrawn by one or more  
33 individuals who are non-skip persons—

34           “(I) before the date that the individual at-  
35 tains age 46,





1 “(II) on or before one or more dates speci-  
2 fied in the trust instrument that will occur be-  
3 fore the date that such individual attains age  
4 46, or

5 “(III) upon the occurrence of an event  
6 that, in accordance with regulations prescribed  
7 by the Secretary, may reasonably be expected  
8 to occur before the date that such individual  
9 attains age 46,

10 “(ii) the trust instrument provides that more  
11 than 25 percent of the trust corpus must be dis-  
12 tributed to or may be withdrawn by one or more  
13 individuals who are non-skip persons and who are  
14 living on the date of death of another person identi-  
15 fied in the instrument (by name or by class) who  
16 is more than 10 years older than such individuals,

17 “(iii) the trust instrument provides that, if one  
18 or more individuals who are non-skip persons die  
19 on or before a date or event described in clause (i)  
20 or (ii), more than 25 percent of the trust corpus  
21 either must be distributed to the estate or estates  
22 of one or more of such individuals or is subject to  
23 a general power of appointment exercisable by one  
24 or more of such individuals,

25 “(iv) the trust is a trust any portion of which  
26 would be included in the gross estate of a non-skip  
27 person (other than the transferor) if such person  
28 died immediately after the transfer,

29 “(v) the trust is a charitable lead annuity  
30 trust (within the meaning of section 2642(e)(3)(A))  
31 or a charitable remainder annuity trust or a chari-  
32 table remainder unitrust (within the meaning of  
33 section 664(d)), or

34 “(vi) the trust is a trust with respect to which  
35 a deduction was allowed under section 2522 for the  
36 amount of an interest in the form of the right to



1 receive annual payments of a fixed percentage of  
2 the net fair market value of the trust property (de-  
3 termined yearly) and which is required to pay prin-  
4 cipal to a non-skip person if such person is alive  
5 when the yearly payments for which the deduction  
6 was allowed terminate.

7 For purposes of this subparagraph, the value of trans-  
8 ferred property shall not be considered to be includible  
9 in the gross estate of a non-skip person or subject to  
10 a right of withdrawal by reason of such person holding  
11 a right to withdraw so much of such property as does  
12 not exceed the amount referred to in section 2503(b)  
13 with respect to any transferor, and it shall be assumed  
14 that powers of appointment held by non-skip persons  
15 will not be exercised.

16 “(4) AUTOMATIC ALLOCATIONS TO CERTAIN GST  
17 TRUSTS.—For purposes of this subsection, an indirect skip  
18 to which section 2642(f) applies shall be deemed to have  
19 been made only at the close of the estate tax inclusion pe-  
20 riod. The fair market value of such transfer shall be the  
21 fair market value of the trust property at the close of the  
22 estate tax inclusion period.

23 “(5) APPLICABILITY AND EFFECT.—

24 “(A) IN GENERAL.—An individual—

25 “(i) may elect to have this subsection not  
26 apply to—

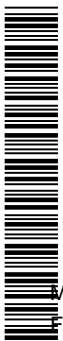
27 “(I) an indirect skip, or

28 “(II) any or all transfers made by such in-  
29 dividual to a particular trust, and

30 “(ii) may elect to treat any trust as a GST  
31 trust for purposes of this subsection with respect to  
32 any or all transfers made by such individual to  
33 such trust.

34 “(B) ELECTIONS.—

35 “(i) ELECTIONS WITH RESPECT TO INDIRECT  
36 SKIPS.—An election under subparagraph (A)(i)(I)



1 shall be deemed to be timely if filed on a timely  
2 filed gift tax return for the calendar year in which  
3 the transfer was made or deemed to have been  
4 made pursuant to paragraph (4) or on such later  
5 date or dates as may be prescribed by the Sec-  
6 retary.

7 “(ii) OTHER ELECTIONS.—An election under  
8 clause (i)(II) or (ii) of subparagraph (A) may be  
9 made on a timely filed gift tax return for the cal-  
10 endar year for which the election is to become ef-  
11 fective.

12 “(d) RETROACTIVE ALLOCATIONS.—

13 “(1) IN GENERAL.—If—

14 “(A) a non-skip person has an interest or a future  
15 interest in a trust to which any transfer has been  
16 made,

17 “(B) such person—

18 “(i) is a lineal descendant of a grandparent of  
19 the transferor or of a grandparent of the trans-  
20 feror’s spouse or former spouse, and

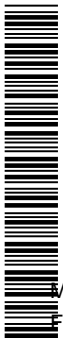
21 “(ii) is assigned to a generation below the gen-  
22 eration assignment of the transferor, and

23 “(C) such person predeceases the transferor,

24 then the transferor may make an allocation of any of such  
25 transferor’s unused GST exemption to any previous trans-  
26 fer or transfers to the trust on a chronological basis.

27 “(2) SPECIAL RULES.—If the allocation under para-  
28 graph (1) by the transferor is made on a gift tax return  
29 filed on or before the date prescribed by section 6075(b)  
30 for gifts made within the calendar year within which the  
31 non-skip person’s death occurred—

32 “(A) the value of such transfer or transfers for  
33 purposes of section 2642(a) shall be determined as if  
34 such allocation had been made on a timely filed gift tax  
35 return for each calendar year within which each trans-  
36 fer was made,



1 “(B) such allocation shall be effective immediately  
2 before such death, and

3 “(C) the amount of the transferor’s unused GST  
4 exemption available to be allocated shall be determined  
5 immediately before such death.

6 “(3) FUTURE INTEREST.—For purposes of this sub-  
7 section, a person has a future interest in a trust if the  
8 trust may permit income or corpus to be paid to such per-  
9 son on a date or dates in the future.”.

10 (b) CONFORMING AMENDMENT.—Paragraph (2) of section  
11 2632(b) is amended by striking “with respect to a prior direct  
12 skip” and inserting “or subsection (c)(1)”.

13 (c) EFFECTIVE DATES.—

14 (1) DEEMED ALLOCATION.—Section 2632(c) of the In-  
15 ternal Revenue Code of 1986 (as added by subsection (a)),  
16 and the amendment made by subsection (b), shall apply to  
17 transfers subject to chapter 11 or 12 made after December  
18 31, 2000, and to estate tax inclusion periods ending after  
19 December 31, 2000.

20 (2) RETROACTIVE ALLOCATIONS.—Section 2632(d) of  
21 the Internal Revenue Code of 1986 (as added by subsection  
22 (a)) shall apply to deaths of non-skip persons occurring  
23 after December 31, 2000.

24 **SEC. 562. SEVERING OF TRUSTS.**

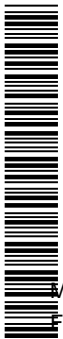
25 (a) IN GENERAL.—Subsection (a) of section 2642 (relat-  
26 ing to inclusion ratio) is amended by adding at the end the fol-  
27 lowing new paragraph:

28 “(3) SEVERING OF TRUSTS.—

29 “(A) IN GENERAL.—If a trust is severed in a  
30 qualified severance, the trusts resulting from such sev-  
31 erance shall be treated as separate trusts thereafter for  
32 purposes of this chapter.

33 “(B) QUALIFIED SEVERANCE.—For purposes of  
34 subparagraph (A)—

35 “(i) IN GENERAL.—The term ‘qualified sever-  
36 ance’ means the division of a single trust and the



1 creation (by any means available under the gov-  
2 erning instrument or under local law) of two or  
3 more trusts if—

4 “(I) the single trust was divided on a frac-  
5 tional basis, and

6 “(II) the terms of the new trusts, in the  
7 aggregate, provide for the same succession of  
8 interests of beneficiaries as are provided in the  
9 original trust.

10 “(ii) TRUSTS WITH INCLUSION RATIO GREAT-  
11 ER THAN ZERO.—If a trust has an inclusion ratio  
12 of greater than zero and less than 1, a severance  
13 is a qualified severance only if the single trust is  
14 divided into two trusts, one of which receives a  
15 fractional share of the total value of all trust assets  
16 equal to the applicable fraction of the single trust  
17 immediately before the severance. In such case, the  
18 trust receiving such fractional share shall have an  
19 inclusion ratio of zero and the other trust shall  
20 have an inclusion ratio of 1.

21 “(iii) REGULATIONS.—The term ‘qualified sev-  
22 erance’ includes any other severance permitted  
23 under regulations prescribed by the Secretary.

24 “(C) TIMING AND MANNER OF SEVERANCES.—A  
25 severance pursuant to this paragraph may be made at  
26 any time. The Secretary shall prescribe by forms or  
27 regulations the manner in which the qualified severance  
28 shall be reported to the Secretary.”.

29 (b) EFFECTIVE DATE.—The amendment made by this sec-  
30 tion shall apply to severances after December 31, 2000.

31 **SEC. 563. MODIFICATION OF CERTAIN VALUATION**  
32 **RULES.**

33 (a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR  
34 DEEMED ALLOCATION MADE.—Paragraph (1) of section  
35 2642(b) (relating to valuation rules, etc.) is amended to read  
36 as follows:

1           “(1) GIFTS FOR WHICH GIFT TAX RETURN FILED OR  
2       DEEMED ALLOCATION MADE.—If the allocation of the GST  
3       exemption to any transfers of property is made on a gift  
4       tax return filed on or before the date prescribed by section  
5       6075(b) for such transfer or is deemed to be made under  
6       section 2632 (b)(1) or (c)(1)—

7           “(A) the value of such property for purposes of  
8       subsection (a) shall be its value as finally determined  
9       for purposes of chapter 12 (within the meaning of sec-  
10      tion 2001(f)(2)), or, in the case of an allocation deemed  
11      to have been made at the close of an estate tax inclu-  
12      sion period, its value at the time of the close of the es-  
13      tate tax inclusion period, and

14          “(B) such allocation shall be effective on and after  
15      the date of such transfer, or, in the case of an alloca-  
16      tion deemed to have been made at the close of an es-  
17      tate tax inclusion period, on and after the close of such  
18      estate tax inclusion period.”.

19          (b) TRANSFERS AT DEATH.—Subparagraph (A) of section  
20      2642(b)(2) is amended to read as follows:

21          “(A) TRANSFERS AT DEATH.—If property is  
22      transferred as a result of the death of the transferor,  
23      the value of such property for purposes of subsection  
24      (a) shall be its value as finally determined for purposes  
25      of chapter 11; except that, if the requirements pre-  
26      scribed by the Secretary respecting allocation of post-  
27      death changes in value are not met, the value of such  
28      property shall be determined as of the time of the dis-  
29      tribution concerned.”.

30          (c) EFFECTIVE DATE.—The amendments made by this  
31      section shall apply to transfers subject to chapter 11 or 12 of  
32      the Internal Revenue Code of 1986 made after December 31,  
33      2000.

34      **SEC. 564. RELIEF PROVISIONS.**

35          (a) IN GENERAL.—Section 2642 is amended by adding at  
36      the end the following new subsection:

1 “(g) RELIEF PROVISIONS.—

2 “(1) RELIEF FROM LATE ELECTIONS.—

3 “(A) IN GENERAL.—The Secretary shall by regu-  
4 lation prescribe such circumstances and procedures  
5 under which extensions of time will be granted to  
6 make—

7 “(i) an allocation of GST exemption described  
8 in paragraph (1) or (2) of subsection (b), and

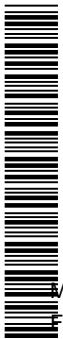
9 “(ii) an election under subsection (b)(3) or  
10 (c)(5) of section 2632.

11 Such regulations shall include procedures for request-  
12 ing comparable relief with respect to transfers made be-  
13 fore the date of the enactment of this paragraph.

14 “(B) BASIS FOR DETERMINATIONS.—In deter-  
15 mining whether to grant relief under this paragraph,  
16 the Secretary shall take into account all relevant cir-  
17 cumstances, including evidence of intent contained in  
18 the trust instrument or instrument of transfer and  
19 such other factors as the Secretary deems relevant. For  
20 purposes of determining whether to grant relief under  
21 this paragraph, the time for making the allocation (or  
22 election) shall be treated as if not expressly prescribed  
23 by statute.

24 “(2) SUBSTANTIAL COMPLIANCE.—An allocation of  
25 GST exemption under section 2632 that demonstrates an  
26 intent to have the lowest possible inclusion ratio with re-  
27 spect to a transfer or a trust shall be deemed to be an allo-  
28 cation of so much of the transferor’s unused GST exemp-  
29 tion as produces the lowest possible inclusion ratio. In de-  
30 termining whether there has been substantial compliance,  
31 all relevant circumstances shall be taken into account, in-  
32 cluding evidence of intent contained in the trust instrument  
33 or instrument of transfer and such other factors as the  
34 Secretary deems relevant.”.

35 (b) EFFECTIVE DATES.—



(1) RELIEF FROM LATE ELECTIONS.—Section 2642(g)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to requests pending on, or filed after, December 31, 2000.

(2) SUBSTANTIAL COMPLIANCE.—Section 2642(g)(2) of such Code (as so added) shall apply to transfers subject to chapter 11 or 12 of the Internal Revenue Code of 1986 made after December 31, 2000. No implication is intended with respect to the availability of relief from late elections or the application of a rule of substantial compliance on or before such date.

## **Subtitle H—Extension of Time for Payment of Estate Tax**

### **SEC. 571. INCREASE IN NUMBER OF ALLOWABLE PART- NERS AND SHAREHOLDERS IN CLOSELY HELD BUSINESSES.**

(a) IN GENERAL.—Paragraphs (1)(B)(ii), (1)(C)(ii), and (9)(B)(iii)(I) of section 6166(b) (relating to definitions and special rules) are each amended by striking “15” and inserting “45”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 2001.

### **SEC. 572. EXPANSION OF AVAILABILITY OF INSTALL- MENT PAYMENT FOR ESTATES WITH INTER- ESTS QUALIFYING LENDING AND FINANCE BUSINESSES.**

(a) IN GENERAL.—Section 6166(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(10) STOCK IN QUALIFYING LENDING AND FINANCE BUSINESS TREATED AS STOCK IN AN ACTIVE TRADE OR BUSINESS COMPANY.—

“(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then—

“(i) STOCK IN QUALIFYING LENDING AND FINANCE BUSINESS TREATED AS STOCK IN AN AC-



1 TIVE TRADE OR BUSINESS COMPANY.—For pur-  
2 poses of this section, any asset used in a qualifying  
3 lending and finance business shall be treated as an  
4 asset which is used in carrying on a trade or busi-  
5 ness.

6 “(ii) 5-YEAR DEFERRAL FOR PRINCIPAL NOT  
7 TO APPLY.—The executor shall be treated as hav-  
8 ing selected under subsection (a)(3) the date pre-  
9 scribed by section 6151(a).

10 “(iii) 5 EQUAL INSTALLMENTS ALLOWED.—  
11 For purposes of applying subsection (a)(1), ‘5’  
12 shall be substituted for ‘10’.

13 “(B) DEFINITIONS.—For purposes of this  
14 paragraph—

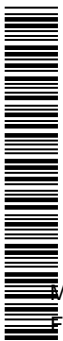
15 “(i) QUALIFYING LENDING AND FINANCE  
16 BUSINESS.—The term ‘qualifying lending and fi-  
17 nance business’ means a lending and finance busi-  
18 ness, if—

19 “(I) based on all the facts and cir-  
20 cumstances immediately before the date of the  
21 decedent’s death, there was substantial activity  
22 with respect to the lending and finance busi-  
23 ness, or

24 “(II) during at least 3 of the 5 taxable  
25 years ending before the date of the decedent’s  
26 death, such business had at least 1 full-time  
27 employee substantially all of whose services  
28 were the active management of such business,  
29 10 full-time, nonowner employees substantially  
30 all of whose services were directly related to  
31 such business, and \$5,000,000 in gross receipts  
32 from activities described in clause (ii).

33 “(ii) LENDING AND FINANCE BUSINESS.—The  
34 term ‘lending and finance business’ means a trade  
35 or business of—

36 “(I) making loans,



1 “(II) purchasing or discounting accounts  
2 receivable, notes, or installment obligations,

3 “(III) engaging in rental and leasing of  
4 real and tangible personal property, including  
5 entering into leases and purchasing, servicing,  
6 and disposing of leases and leased assets,

7 “(IV) rendering services or making facili-  
8 ties available in the ordinary course of a lend-  
9 ing or finance business, and

10 “(V) rendering services or making facili-  
11 ties available in connection with activities de-  
12 scribed in subclauses (I) through (IV) carried  
13 on by the corporation rendering services or  
14 making facilities available, or another corpora-  
15 tion which is a member of the same affiliated  
16 group (as defined in section 1504 without re-  
17 gard to section 1504(b)(3)).

18 “(iii) LIMITATION.—The term ‘qualifying lend-  
19 ing and finance business’ shall not include any in-  
20 terest in an entity, if the stock or debt of such enti-  
21 ty or a controlled group (as defined in section  
22 267(f)(1)) of which such entity was a member was  
23 readily tradable on an established securities market  
24 or secondary market (as defined by the Secretary)  
25 at any time within 3 years before the date of the  
26 decedent’s death.”.

27 (b) EFFECTIVE DATE.—The amendment made by this sec-  
28 tion shall apply to estates of decedents dying after December  
29 31, 2001.

30 **SEC. 572. CLARIFICATION OF AVAILABILITY OF IN-**  
31 **STALLMENT PAYMENT.**

32 (a) IN GENERAL.—Subparagraph (B) of section  
33 6166(b)(8) (relating to all stock must be non-readily-tradable  
34 stock) is amended to read as follows:

35 “(B) ALL STOCK MUST BE NON-READILY-  
36 TRADABLE STOCK.—

“(i) IN GENERAL.—No stock shall be taken into account for purposes of applying this paragraph unless it is non-readily-tradable stock (within the meaning of paragraph (7)(B)).

“(ii) SPECIAL APPLICATION WHERE ONLY HOLDING COMPANY STOCK IS NON-READILY-TRADABLE STOCK.—If the requirements of clause (i) are not met, but all of the stock of each holding company taken into account is non-readily-tradable, then this paragraph shall apply, but subsection (a)(1) shall be applied by substituting ‘5’ for ‘10’.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2001.

## **Subtitle I—Other Provisions**

### **SEC. 581. WAIVER OF STATUTE OF LIMITATION FOR TAXES ON CERTAIN FARM VALUATIONS.**

If on the date of the enactment of this Act (or at any time within 1 year after the date of the enactment) a refund or credit of any overpayment of tax resulting from the application of section 2032A(c)(7)(E) of the Internal Revenue Code of 1986 is barred by any law or rule of law, the refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

## **TITLE VI—PENSION AND INDIVIDUAL RETIREMENT ARRANGEMENT PROVISIONS**

### **Subtitle A—Individual Retirement Accounts**

#### **SEC. 601. MODIFICATION OF IRA CONTRIBUTION LIMITS.**

(a) INCREASE IN CONTRIBUTION LIMIT.—

(1) IN GENERAL.—Paragraph (1)(A) of section 219(b) (relating to maximum amount of deduction) is amended by striking “\$2,000” and inserting “the deductible amount”.

1 (2) DEDUCTIBLE AMOUNT.—Section 219(b) is amend-  
 2 ed by adding at the end the following new paragraph:

3 “(5) DEDUCTIBLE AMOUNT.—For purposes of para-  
 4 graph (1)(A)—

5 “(A) IN GENERAL.—The deductible amount shall  
 6 be determined in accordance with the following table:

<b>“For taxable years beginning in:</b>	<b>The deductible amount is:</b>
2002 through 2004 .....	\$3,000
2005 through 2007 .....	\$4,000
2008 and thereafter .....	\$5,000.

7 “(B) CATCH-UP CONTRIBUTIONS FOR INDIVID-  
 8 UALS 50 OR OLDER.—

9 “(i) IN GENERAL.—In the case of an indi-  
 10 vidual who has attained the age of 50 before the  
 11 close of the taxable year, the deductible amount for  
 12 such taxable year shall be increased by the applica-  
 13 ble amount.

14 “(ii) APPLICABLE AMOUNT.—For purposes of  
 15 clause (i), the applicable amount shall be the  
 16 amount determined in accordance with the fol-  
 17 lowing table:

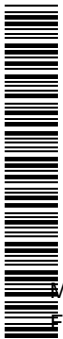
<b>“For taxable years beginning in:</b>	<b>The applicable amount is:</b>
2002 through 2005 .....	\$500
2006 and thereafter .....	\$1,000.

18 “(C) COST-OF-LIVING ADJUSTMENT.—

19 “(i) IN GENERAL.—In the case of any taxable  
 20 year beginning in a calendar year after 2008, the  
 21 \$5,000 amount under subparagraph (A) shall be  
 22 increased by an amount equal to—

23 “(I) such dollar amount, multiplied by

24 “(II) the cost-of-living adjustment deter-  
 25 mined under section 1(f)(3) for the calendar  
 26 year in which the taxable year begins, deter-  
 27 mined by substituting ‘calendar year 2007’ for  
 28 ‘calendar year 1992’ in subparagraph (B)  
 29 thereof.



1                   “(ii) ROUNDING RULES.—If any amount after  
2                   adjustment under clause (i) is not a multiple of  
3                   \$500, such amount shall be rounded to the next  
4                   lower multiple of \$500.”.

5           (b) CONFORMING AMENDMENTS.—

6           (1) Section 408(a)(1) is amended by striking “in ex-  
7           cess of \$2,000 on behalf of any individual” and inserting  
8           “on behalf of any individual in excess of the amount in ef-  
9           fect for such taxable year under section 219(b)(1)(A)”.

10          (2) Section 408(b)(2)(B) is amended by striking  
11          “\$2,000” and inserting “the dollar amount in effect under  
12          section 219(b)(1)(A)”.

13          (3) Section 408(b) is amended by striking “\$2,000” in  
14          the matter following paragraph (4) and inserting “the dol-  
15          lar amount in effect under section 219(b)(1)(A)”.

16          (4) Section 408(j) is amended by striking “\$2,000”.

17          (5) Section 408(p)(8) is amended by striking  
18          “\$2,000” and inserting “the dollar amount in effect under  
19          section 219(b)(1)(A)”.

20          (c) EFFECTIVE DATE.—The amendments made by this  
21          section shall apply to taxable years beginning after December  
22          31, 2001.

23       **SEC. 602. DEEMED IRAS UNDER EMPLOYER PLANS.**

24          (a) IN GENERAL.—Section 408 (relating to individual re-  
25          tirement accounts) is amended by redesignating subsection (q)  
26          as subsection (r) and by inserting after subsection (p) the fol-  
27          lowing new subsection:

28               “(q) DEEMED IRAS UNDER QUALIFIED EMPLOYER  
29          PLANS.—

30               “(1) GENERAL RULE.—If—

31                       “(A) a qualified employer plan elects to allow em-  
32                       ployees to make voluntary employee contributions to a  
33                       separate account or annuity established under the plan,  
34                       and

35                       “(B) under the terms of the qualified employer  
36                       plan, such account or annuity meets the applicable re-



1           quirements of this section or section 408A for an indi-  
2           vidual retirement account or annuity,  
3       then such account or annuity shall be treated for purposes  
4       of this title in the same manner as an individual retirement  
5       plan and not as a qualified employer plan (and contribu-  
6       tions to such account or annuity as contributions to an in-  
7       dividual retirement plan and not to the qualified employer  
8       plan). For purposes of subparagraph (B), the requirements  
9       of subsection (a)(5) shall not apply.

10           “(2) SPECIAL RULES FOR QUALIFIED EMPLOYER  
11       PLANS.—For purposes of this title, a qualified employer  
12       plan shall not fail to meet any requirement of this title  
13       solely by reason of establishing and maintaining a program  
14       described in paragraph (1).

15           “(3) DEFINITIONS.—For purposes of this  
16       subsection—

17           “(A) QUALIFIED EMPLOYER PLAN.—The term  
18       ‘qualified employer plan’ has the meaning given such  
19       term by section 72(p)(4); except such term shall not in-  
20       clude a government plan which is not a qualified plan  
21       unless the plan is an eligible deferred compensation  
22       plan (as defined in section 457(b)).

23           “(B) VOLUNTARY EMPLOYEE CONTRIBUTION.—  
24       The term ‘voluntary employee contribution’ means any  
25       contribution (other than a mandatory contribution  
26       within the meaning of section 411(c)(2)(C))—

27           “(i) which is made by an individual as an em-  
28       ployee under a qualified employer plan which allows  
29       employees to elect to make contributions described  
30       in paragraph (1), and

31           “(ii) with respect to which the individual has  
32       designated the contribution as a contribution to  
33       which this subsection applies.”.

34       (b) AMENDMENT OF ERISA.—

35           “(1) IN GENERAL.—Section 4 of the Employee Retire-  
36       ment Income Security Act of 1974 (29 U.S.C. 1003) is

1 amended by adding at the end the following new sub-  
2 section:

3 “(c) If a pension plan allows an employee to elect to make  
4 voluntary employee contributions to accounts and annuities as  
5 provided in section 408(q) of the Internal Revenue Code of  
6 1986, such accounts and annuities (and contributions thereto)  
7 shall not be treated as part of such plan (or as a separate pen-  
8 sion plan) for purposes of any provision of this title other than  
9 section 403(c), 404, or 405 (relating to exclusive benefit, and  
10 fiduciary and co-fiduciary responsibilities).”.

11 (2) CONFORMING AMENDMENT.—Section 4(a) of such  
12 Act (29 U.S.C. 1003(a)) is amended by inserting “or (c)”  
13 after “subsection (b)”.

14 (c) EFFECTIVE DATE.—The amendments made by this  
15 section shall apply to plan years beginning after December 31,  
16 2002.

## 17 **Subtitle B—Expanding Coverage**

### 18 **SEC. 611. INCREASE IN BENEFIT AND CONTRIBUTION** 19 **LIMITS.**

20 (a) DEFINED BENEFIT PLANS.—

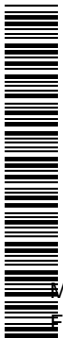
21 (1) DOLLAR LIMIT.—

22 (A) Subparagraph (A) of section 415(b)(1) (relat-  
23 ing to limitation for defined benefit plans) is amended  
24 by striking “\$90,000” and inserting “\$160,000”.

25 (B) Subparagraphs (C) and (D) of section  
26 415(b)(2) are each amended in the headings and the  
27 text, by striking “\$90,000” and inserting “\$160,000”,

28 (C) Paragraph (7) of section 415(b) (relating to  
29 benefits under certain collectively bargained plans) is  
30 amended by striking “the greater of \$68,212 or one-  
31 half the amount otherwise applicable for such year  
32 under paragraph (1)(A) for ‘\$90,000’” and inserting  
33 “one-half the amount otherwise applicable for such  
34 year under paragraph (1)(A) for ‘\$160,000’”.

35 (2) LIMIT REDUCED WHEN BENEFIT BEGINS BEFORE  
36 AGE 62.—Subparagraph (C) of section 415(b)(2) is amend-



1 ed by striking “the social security retirement age” each  
2 place it appears in the heading and text and inserting “age  
3 62” and by striking the second sentence.

4 (3) LIMIT INCREASED WHEN BENEFIT BEGINS AFTER  
5 AGE 65.—Subparagraph (D) of section 415(b)(2) is amend-  
6 ed by striking “the social security retirement age” each  
7 place it appears in the heading and text and inserting “age  
8 65”.

9 (4) COST-OF-LIVING ADJUSTMENTS.—Subsection (d)  
10 of section 415 (related to cost-of-living adjustments) is  
11 amended—

12 (A) by striking “\$90,000” in paragraph (1)(A)  
13 and inserting “\$160,000”; and

14 (B) in paragraph (3)(A)—

15 (i) by striking “\$90,000” in the heading and  
16 inserting “\$160,000”; and

17 (ii) by striking “October 1, 1986” and insert-  
18 ing “July 1, 2001”.

19 (5) CONFORMING AMENDMENTS.—

20 (A) Section 415(b)(2) is amended by striking sub-  
21 paragraph (F).

22 (B) Section 415(b)(9) is amended to read as fol-  
23 lows:

24 “(9) SPECIAL RULE FOR COMMERCIAL AIRLINE PI-  
25 LOTS.—

26 “(A) IN GENERAL.—Except as provided in sub-  
27 paragraph (B), in the case of any participant who is  
28 a commercial airline pilot, if, as of the time of the par-  
29 ticipant’s retirement, regulations prescribed by the  
30 Federal Aviation Administration require an individual  
31 to separate from service as a commercial airline pilot  
32 after attaining any age occurring on or after age 60  
33 and before age 62, paragraph (2)(C) shall be applied  
34 by substituting such age for age 62.

35 “(B) INDIVIDUALS WHO SEPARATE FROM SERVICE  
36 BEFORE AGE 60.—If a participant described in sub-





1 paragraph (A) separates from service before age 60,  
2 the rules of paragraph (2)(C) shall apply.”.

3 (C) Section 415(b)(10)(C)(i) is amended by strik-  
4 ing “applied without regard to paragraph (2)(F)”.

5 (b) DEFINED CONTRIBUTION PLANS.—

6 (1) DOLLAR LIMIT.—Subparagraph (A) of section  
7 415(e)(1) (relating to limitation for defined contribution  
8 plans) is amended by striking “\$30,000” and inserting  
9 “\$40,000”.

10 (2) COST-OF-LIVING ADJUSTMENTS.—Subsection (d)  
11 of section 415 (related to cost-of-living adjustments) is  
12 amended—

13 (A) by striking “\$30,000” in paragraph (1)(C)  
14 and inserting “\$40,000”; and

15 (B) in paragraph (3)(D)—

16 (i) by striking “\$30,000” in the heading and  
17 inserting “\$40,000”; and

18 (ii) by striking “October 1, 1993” and insert-  
19 ing “July 1, 2001”.

20 (c) QUALIFIED TRUSTS.—

21 (1) COMPENSATION LIMIT.—Sections 401(a)(17),  
22 404(l), 408(k), and 505(b)(7) are each amended by strik-  
23 ing “\$150,000” each place it appears and inserting  
24 “\$200,000”.

25 (2) BASE PERIOD AND ROUNDING OF COST-OF-LIVING  
26 ADJUSTMENT.—Subparagraph (B) of section 401(a)(17) is  
27 amended—

28 (A) by striking “October 1, 1993” and inserting  
29 “July 1, 2001”; and

30 (B) by striking “\$10,000” both places it appears  
31 and inserting “\$5,000”.

32 (d) ELECTIVE DEFERRALS.—

33 (1) IN GENERAL.—Paragraph (1) of section 402(g)  
34 (relating to limitation on exclusion for elective deferrals) is  
35 amended to read as follows:

36 “(1) IN GENERAL.—



“(A) LIMITATION.—Notwithstanding subsections (e)(3) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual’s gross income to the extent the amount of such deferrals for the taxable year exceeds the applicable dollar amount.

“(B) APPLICABLE DOLLAR AMOUNT.—For purposes of subparagraph (A), the applicable dollar amount shall be the amount determined in accordance with the following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2002 .....	\$11,000
2003 .....	\$12,000
2004 .....	\$13,000
2005 .....	\$14,000
2006 or thereafter .....	\$15,000.”.

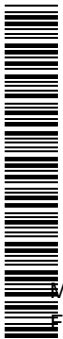
(2) COST-OF-LIVING ADJUSTMENT.—Paragraph (5) of section 402(g) is amended to read as follows:

“(5) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2006, the Secretary shall adjust the \$15,000 amount under paragraph (1)(B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2005, and any increase under this paragraph which is not a multiple of \$500 shall be rounded to the next lowest multiple of \$500.”.

(3) CONFORMING AMENDMENTS.—

(A) Section 402(g) (relating to limitation on exclusion for elective deferrals), as amended by paragraphs (1) and (2), is further amended by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

(B) Paragraph (2) of section 457(c) is amended by striking “402(g)(8)(A)(iii)” and inserting “402(g)(7)(A)(iii)”.



1 (C) Clause (iii) of section 501(c)(18)(D) is amend-  
 2 ed by striking “(other than paragraph (4) thereof)”.

3 (e) DEFERRED COMPENSATION PLANS OF STATE AND  
 4 LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

5 (1) IN GENERAL.—Section 457 (relating to deferred  
 6 compensation plans of State and local governments and  
 7 tax-exempt organizations) is amended—

8 (A) in subsections (b)(2)(A) and (c)(1) by striking  
 9 “\$7,500” each place it appears and inserting “the ap-  
 10 plicable dollar amount”; and

11 (B) in subsection (b)(3)(A) by striking “\$15,000”  
 12 and inserting “twice the dollar amount in effect under  
 13 subsection (b)(2)(A)”.

14 (2) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING  
 15 ADJUSTMENT.—Paragraph (15) of section 457(e) is  
 16 amended to read as follows:

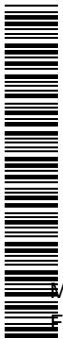
17 “(15) APPLICABLE DOLLAR AMOUNT.—

18 “(A) IN GENERAL.—The applicable dollar amount  
 19 shall be the amount determined in accordance with the  
 20 following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2002 .....	\$11,000
2003 .....	\$12,000
2004 .....	\$13,000
2005 .....	\$14,000
2006 or thereafter .....	\$15,000.

21 “(B) COST-OF-LIVING ADJUSTMENTS.—In the case  
 22 of taxable years beginning after December 31, 2006,  
 23 the Secretary shall adjust the \$15,000 amount under  
 24 subparagraph (A) at the same time and in the same  
 25 manner as under section 415(d), except that the base  
 26 period shall be the calendar quarter beginning July 1,  
 27 2005, and any increase under this paragraph which is  
 28 not a multiple of \$500 shall be rounded to the next  
 29 lowest multiple of \$500.”.

30 (f) SIMPLE RETIREMENT ACCOUNTS.—



1 (1) LIMITATION.—Clause (ii) of section 408(p)(2)(A)  
 2 (relating to general rule for qualified salary reduction ar-  
 3 rangement) is amended by striking “\$6,000” and inserting  
 4 “the applicable dollar amount”.

5 (2) APPLICABLE DOLLAR AMOUNT.—Subparagraph  
 6 (E) of 408(p)(2) is amended to read as follows:

7 “(E) APPLICABLE DOLLAR AMOUNT; COST-OF-LIV-  
 8 ING ADJUSTMENT.—

9 “(i) IN GENERAL.—For purposes of subpara-  
 10 graph (A)(ii), the applicable dollar amount shall be  
 11 the amount determined in accordance with the fol-  
 12 lowing table:

<b>“For years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2002 .....	\$7,000
2003 .....	\$8,000
2004 .....	\$9,000
2005 or thereafter .....	\$10,000.

13 “(ii) COST-OF-LIVING ADJUSTMENT.—In the  
 14 case of a year beginning after December 31, 2005,  
 15 the Secretary shall adjust the \$10,000 amount  
 16 under clause (i) at the same time and in the same  
 17 manner as under section 415(d), except that the  
 18 base period taken into account shall be the cal-  
 19 endar quarter beginning July 1, 2004, and any in-  
 20 crease under this subparagraph which is not a mul-  
 21 tiple of \$500 shall be rounded to the next lower  
 22 multiple of \$500.”.

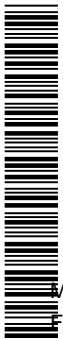
23 (3) CONFORMING AMENDMENTS.—

24 (A) Subclause (I) of section 401(k)(11)(B)(i) is  
 25 amended by striking “\$6,000” and inserting “the  
 26 amount in effect under section 408(p)(2)(A)(ii)”.

27 (B) Section 401(k)(11) is amended by striking  
 28 subparagraph (E).

29 (g) CERTAIN COMPENSATION LIMITS.—

30 (1) IN GENERAL.—Subparagraph (A) of section  
 31 401(c)(2) (defining earned income) is amended by adding



1 at the end thereof the following new sentence: “For pur-  
2 poses of this part only (other than sections 419 and 419A),  
3 this subparagraph shall be applied as if the term ‘trade or  
4 business’ for purposes of section 1402 included service de-  
5 scribed in section 1402(e)(6).”.

6 (2) SIMPLE RETIREMENT ACCOUNTS.—Clause (ii) of  
7 section 408(p)(6)(A) (defining self-employed) is amended  
8 by adding at the end the following new sentence: “The pre-  
9 ceeding sentence shall be applied as if the term ‘trade or  
10 business’ for purposes of section 1402 included service de-  
11 scribed in section 1402(e)(6).”.

12 (h) ROUNDING RULE RELATING TO DEFINED BENEFIT  
13 PLANS AND DEFINED CONTRIBUTION PLANS.—Paragraph (4)  
14 of section 415(d) is amended to read as follows:

15 “(4) ROUNDING.—

16 “(A) \$160,000 AMOUNT.—Any increase under  
17 subparagraph (A) of paragraph (1) which is not a mul-  
18 tiple of \$5,000 shall be rounded to the next lowest mul-  
19 tiple of \$5,000.

20 “(B) \$40,000 AMOUNT.—Any increase under sub-  
21 paragraph (C) of paragraph (1) which is not a multiple  
22 of \$1,000 shall be rounded to the next lowest multiple  
23 of \$1,000.”.

24 (i) EFFECTIVE DATES.—

25 (1) IN GENERAL.—The amendments made by this sec-  
26 tion shall apply to years beginning after December 31,  
27 2001.

28 (2) DEFINED BENEFIT PLANS.—The amendments  
29 made by subsection (a) shall apply to years ending after  
30 December 31, 2001.

31 **SEC. 612. PLAN LOANS FOR SUBCHAPTER S OWNERS,**  
32 **PARTNERS, AND SOLE PROPRIETORS.**

33 (a) IN GENERAL.—Subparagraph (B) of section  
34 4975(f)(6) (relating to exemptions not to apply to certain  
35 transactions) is amended by adding at the end the following  
36 new clause:

1                   “(iii) LOAN EXCEPTION.—For purposes of  
2                   subparagraph (A)(i), the term ‘owner-employee’  
3                   shall only include a person described in subclause  
4                   (II) or (III) of clause (i).”.

5           (b) AMENDMENT OF ERISA.—Section 408(d)(2) of the  
6   Employee Retirement Income Security Act of 1974 (29 U.S.C.  
7   1108(d)(2)) is amended by adding at the end the following new  
8   subparagraph:

9           “(C) For purposes of paragraph (1)(A), the term ‘owner-  
10   employee’ shall only include a person described in clause (ii) or  
11   (iii) of subparagraph (A).”.

12          (c) EFFECTIVE DATE.—The amendment made by this sec-  
13   tion shall apply to years beginning after December 31, 2001.

14   **SEC. 613. MODIFICATION OF TOP-HEAVY RULES.**

15          (a) SIMPLIFICATION OF DEFINITION OF KEY EM-  
16   PLOYEE.—

17           (1) IN GENERAL.—Section 416(i)(1)(A) (defining key  
18   employee) is amended—

19           (A) by striking “or any of the 4 preceding plan  
20   years” in the matter preceding clause (i);

21           (B) by striking clause (i) and inserting the fol-  
22   lowing:

23           “(i) an officer of the employer having an an-  
24   nual compensation greater than \$130,000,”;

25           (C) by striking clause (ii) and redesignating  
26   clauses (iii) and (iv) as clauses (ii) and (iii), respec-  
27   tively; and

28           (D) by striking the second sentence in the matter  
29   following clause (iii), as redesignated by subparagraph  
30   (C), and by inserting the following: “in the case of plan  
31   years beginning after December 31, 2002, the  
32   \$130,000 amount in clause (i) shall be adjusted at the  
33   same time and in the same manner as under section  
34   415(d), except that the base period shall be the cal-  
35   endar quarter beginning July 1, 2001, and any in-  
36   crease under this sentence which is not a multiple of



1           \$5,000 shall be rounded to the next lower multiple of  
2           \$5,000.”.

3           (2)           CONFORMING           AMENDMENT.—Section  
4           416(i)(1)(B)(iii) is amended by striking “and subparagraph  
5           (A)(ii)”.

6           (b) MATCHING CONTRIBUTIONS TAKEN INTO ACCOUNT  
7           FOR MINIMUM CONTRIBUTION REQUIREMENTS.—Section  
8           416(c)(2)(A) (relating to defined contribution plans) is amend-  
9           ed by adding at the end the following: “Employer matching  
10          contributions (as defined in section 401(m)(4)(A)) shall be  
11          taken into account for purposes of this subparagraph (and any  
12          reduction under this sentence shall not be taken into account  
13          in determining whether section 401(k)(4)(A) applies).”.

14          (c) DISTRIBUTIONS DURING LAST YEAR BEFORE DETER-  
15          MINATION DATE TAKEN INTO ACCOUNT.—

16               (1) IN GENERAL.—Paragraph (3) of section 416(g) is  
17               amended to read as follows:

18               “(3) DISTRIBUTIONS DURING LAST YEAR BEFORE DE-  
19               TERMINATION DATE TAKEN INTO ACCOUNT.—

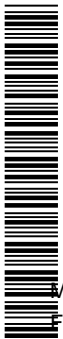
20                   “(A)       IN       GENERAL.—For       purposes       of  
21                   determining—

22                           “(i) the present value of the cumulative ac-  
23                           crued benefit for any employee, or

24                           “(ii) the amount of the account of any em-  
25                           ployee,

26                   such present value or amount shall be increased by the  
27                   aggregate distributions made with respect to such em-  
28                   ployee under the plan during the 1-year period ending  
29                   on the determination date. The preceding sentence  
30                   shall also apply to distributions under a terminated  
31                   plan which if it had not been terminated would have  
32                   been required to be included in an aggregation group.

33                   “(B) 5-YEAR PERIOD IN CASE OF IN-SERVICE DIS-  
34                   TRIBUTION.—In the case of any distribution made for  
35                   a reason other than separation from service, death, or



1 disability, subparagraph (A) shall be applied by sub-  
2 stituting ‘5-year period’ for ‘1-year period’.”.

3 (2) BENEFITS NOT TAKEN INTO ACCOUNT.—Subpara-  
4 graph (E) of section 416(g)(4) is amended—

5 (A) by striking “LAST 5 YEARS” in the heading  
6 and inserting “LAST YEAR BEFORE DETERMINATION  
7 DATE”; and

8 (B) by striking “5-year period” and inserting “1-  
9 year period”.

10 (d) DEFINITION OF TOP-HEAVY PLANS.—Paragraph (4)  
11 of section 416(g) (relating to other special rules for top-heavy  
12 plans) is amended by adding at the end the following new sub-  
13 paragraph:

14 “(H) CASH OR DEFERRED ARRANGEMENTS USING  
15 ALTERNATIVE METHODS OF MEETING NONDISCRIMINA-  
16 TION REQUIREMENTS.—The term ‘top-heavy plan’ shall  
17 not include a plan which consists solely of—

18 “(i) a cash or deferred arrangement which  
19 meets the requirements of section 401(k)(12), and

20 “(ii) matching contributions with respect to  
21 which the requirements of section 401(m)(11) are  
22 met.

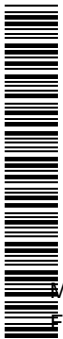
23 If, but for this subparagraph, a plan would be treated  
24 as a top-heavy plan because it is a member of an ag-  
25 gregation group which is a top-heavy group, contribu-  
26 tions under the plan may be taken into account in de-  
27 termining whether any other plan in the group meets  
28 the requirements of subsection (c)(2).”.

29 (e) FROZEN PLAN EXEMPT FROM MINIMUM BENEFIT RE-  
30 QUIREMENT.—Subparagraph (C) of section 416(c)(1) (relating  
31 to defined benefit plans) is amended—

32 (A) by striking “clause (ii)” in clause (i) and in-  
33 serting “clause (ii) or (iii)”; and

34 (B) by adding at the end the following:

35 “(iii) EXCEPTION FOR FROZEN PLAN.—For  
36 purposes of determining an employee’s years of





1 service with the employer, any service with the em-  
2 ployer shall be disregarded to the extent that such  
3 service occurs during a plan year when the plan  
4 benefits (within the meaning of section 410(b)) no  
5 key employee or former key employee.”.

6 (f) EFFECTIVE DATE.—The amendments made by this  
7 section shall apply to years beginning after December 31, 2001.

8 **SEC. 614. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**  
9 **COUNT FOR PURPOSES OF DEDUCTION LIM-**  
10 **ITS.**

11 (a) IN GENERAL.—Section 404 (relating to deduction for  
12 contributions of an employer to an employees’ trust or annuity  
13 plan and compensation under a deferred payment plan) is  
14 amended by adding at the end the following new subsection:

15 “(n) ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT  
16 FOR PURPOSES OF DEDUCTION LIMITS.—Elective deferrals (as  
17 defined in section 402(g)(3)) shall not be subject to any limita-  
18 tion contained in paragraph (3), (7), or (9) of subsection (a),  
19 and such elective deferrals shall not be taken into account in  
20 applying any such limitation to any other contributions.”.

21 (b) EFFECTIVE DATE.—The amendment made by this sec-  
22 tion shall apply to years beginning after December 31, 2001.

23 **SEC. 615. REPEAL OF COORDINATION REQUIREMENTS**  
24 **FOR DEFERRED COMPENSATION PLANS OF**  
25 **STATE AND LOCAL GOVERNMENTS AND TAX-**  
26 **EXEMPT ORGANIZATIONS.**

27 (a) IN GENERAL.—Subsection (c) of section 457 (relating  
28 to deferred compensation plans of State and local governments  
29 and tax-exempt organizations), as amended by section 611, is  
30 amended to read as follows:

31 “(c) LIMITATION.—The maximum amount of the com-  
32 pensation of any one individual which may be deferred under  
33 subsection (a) during any taxable year shall not exceed the  
34 amount in effect under subsection (b)(2)(A) (as modified by  
35 any adjustment provided under subsection (b)(3)).”.



1 (b) EFFECTIVE DATE.—The amendment made by sub-  
2 section (a) shall apply to years beginning after December 31,  
3 2001.

4 **SEC. 616. DEDUCTION LIMITS.**

5 (a) MODIFICATION OF LIMITS.—

6 (1) STOCK BONUS AND PROFIT SHARING TRUSTS.—

7 (A) IN GENERAL.—Subclause (I) of section  
8 404(a)(3)(A)(i) (relating to stock bonus and profit  
9 sharing trusts) is amended by striking “15 percent”  
10 and inserting “25 percent”.

11 (B) CONFORMING AMENDMENT.—Subparagraph  
12 (C) of section 404(h)(1) is amended by striking “15  
13 percent” each place it appears and inserting “25 per-  
14 cent”.

15 (2) DEFINED CONTRIBUTION PLANS.—

16 (A) IN GENERAL.—Clause (v) of section  
17 404(a)(3)(A) (relating to stock bonus and profit shar-  
18 ing trusts) is amended to read as follows:

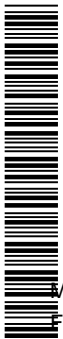
19 “(v) DEFINED CONTRIBUTION PLANS SUBJECT  
20 TO THE FUNDING STANDARDS.—Except as pro-  
21 vided by the Secretary, a defined contribution plan  
22 which is subject to the funding standards of section  
23 412 shall be treated in the same manner as a stock  
24 bonus or profit-sharing plan for purposes of this  
25 subparagraph.”

26 (B) CONFORMING AMENDMENTS.—

27 (i) Section 404(a)(1)(A) is amended by insert-  
28 ing “(other than a trust to which paragraph (3)  
29 applies)” after “pension trust”.

30 (ii) Section 404(h)(2) is amended by striking  
31 “stock bonus or profit-sharing trust” and inserting  
32 “trust subject to subsection (a)(3)(A)”.

33 (iii) The heading of section 404(h)(2) is  
34 amended by striking “STOCK BONUS AND PROFIT-  
35 SHARING TRUST” and inserting “CERTAIN  
36 TRUSTS”.



1 (b) COMPENSATION.—

2 (1) IN GENERAL.—Section 404(a) (relating to general  
3 rule) is amended by adding at the end the following:

4 “(12) DEFINITION OF COMPENSATION.—For purposes  
5 of paragraphs (3), (7), (8), and (9), the term ‘compensa-  
6 tion’ shall include amounts treated as ‘participant’s com-  
7 pensation’ under subparagraph (C) or (D) of section  
8 415(e)(3).”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Subparagraph (B) of section 404(a)(3) is  
11 amended by striking the last sentence thereof.

12 (B) Clause (i) of section 4972(e)(6)(B) is amend-  
13 ed by striking “(within the meaning of section 404(a))”  
14 and inserting “(within the meaning of section 404(a)  
15 and as adjusted under section 404(a)(12))”.

16 (c) EFFECTIVE DATE.—The amendments made by this  
17 section shall apply to years beginning after December 31, 2001.

18 **SEC. 617. OPTION TO TREAT ELECTIVE DEFERRALS AS**  
19 **AFTER-TAX ROTH CONTRIBUTIONS.**

20 (a) IN GENERAL.—Subpart A of part I of subchapter D  
21 of chapter 1 (relating to deferred compensation, etc.) is amend-  
22 ed by inserting after section 402 the following new section:

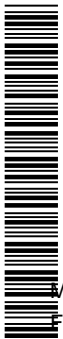
23 **“SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DE-**  
24 **FERRALS AS ROTH CONTRIBUTIONS.**

25 “(a) GENERAL RULE.—If an applicable retirement plan  
26 includes a qualified Roth contribution program—

27 “(1) any designated Roth contribution made by an em-  
28 ployee pursuant to the program shall be treated as an elec-  
29 tive deferral for purposes of this chapter, except that such  
30 contribution shall not be excludable from gross income, and

31 “(2) such plan (and any arrangement which is part of  
32 such plan) shall not be treated as failing to meet any re-  
33 quirement of this chapter solely by reason of including such  
34 program.

35 “(b) QUALIFIED ROTH CONTRIBUTION PROGRAM.—For  
36 purposes of this section—



1           “(1) IN GENERAL.—The term ‘qualified Roth con-  
2       tribution program’ means a program under which an em-  
3       ployee may elect to make designated Roth contributions in  
4       lieu of all or a portion of elective deferrals the employee is  
5       otherwise eligible to make under the applicable retirement  
6       plan.

7           “(2) SEPARATE ACCOUNTING REQUIRED.—A program  
8       shall not be treated as a qualified Roth contribution pro-  
9       gram unless the applicable retirement plan—

10           “(A) establishes separate accounts (‘designated  
11       Roth accounts’) for the designated Roth contributions  
12       of each employee and any earnings properly allocable to  
13       the contributions, and

14           “(B) maintains separate recordkeeping with re-  
15       spect to each account.

16       “(c) DEFINITIONS AND RULES RELATING TO DES-  
17       IGNATED ROTH CONTRIBUTIONS.—For purposes of this  
18       section—

19           “(1) DESIGNATED ROTH CONTRIBUTION.—The term  
20       ‘designated Roth contribution’ means any elective deferral  
21       which—

22           “(A) is excludable from gross income of an em-  
23       ployee without regard to this section, and

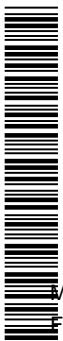
24           “(B) the employee designates (at such time and in  
25       such manner as the Secretary may prescribe) as not  
26       being so excludable.

27           “(2) DESIGNATION LIMITS.—The amount of elective  
28       deferrals which an employee may designate under para-  
29       graph (1) shall not exceed the excess (if any) of—

30           “(A) the maximum amount of elective deferrals ex-  
31       cludable from gross income of the employee for the tax-  
32       able year (without regard to this section), over

33           “(B) the aggregate amount of elective deferrals of  
34       the employee for the taxable year which the employee  
35       does not designate under paragraph (1).

36       “(3) ROLLOVER CONTRIBUTIONS.—



1 “(A) IN GENERAL.—A rollover contribution of any  
2 payment or distribution from a designated Roth ac-  
3 count which is otherwise allowable under this chapter  
4 may be made only if the contribution is to—

5 “(i) another designated Roth account of the  
6 individual from whose account the payment or dis-  
7 tribution was made, or

8 “(ii) a Roth IRA of such individual.

9 “(B) COORDINATION WITH LIMIT.—Any rollover  
10 contribution to a designated Roth account under sub-  
11 paragraph (A) shall not be taken into account for pur-  
12 poses of paragraph (1).

13 “(d) DISTRIBUTION RULES.—For purposes of this title—

14 “(1) EXCLUSION.—Any qualified distribution from a  
15 designated Roth account shall not be includible in gross in-  
16 come.

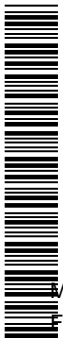
17 “(2) QUALIFIED DISTRIBUTION.—For purposes of this  
18 subsection—

19 “(A) IN GENERAL.—The term ‘qualified distribu-  
20 tion’ has the meaning given such term by section  
21 408A(d)(2)(A) (without regard to clause (iv) thereof).

22 “(B) DISTRIBUTIONS WITHIN NONEXCLUSION PE-  
23 RIOD.—A payment or distribution from a designated  
24 Roth account shall not be treated as a qualified dis-  
25 tribution if such payment or distribution is made with-  
26 in the 5-taxable-year period beginning with the earlier  
27 of—

28 “(i) the first taxable year for which the indi-  
29 vidual made a designated Roth contribution to any  
30 designated Roth account established for such indi-  
31 vidual under the same applicable retirement plan,  
32 or

33 “(ii) if a rollover contribution was made to  
34 such designated Roth account from a designated  
35 Roth account previously established for such indi-  
36 vidual under another applicable retirement plan,



1 the first taxable year for which the individual made  
2 a designated Roth contribution to such previously  
3 established account.

4 “(C) DISTRIBUTIONS OF EXCESS DEFERRALS AND  
5 CONTRIBUTIONS AND EARNINGS THEREON.—The term  
6 ‘qualified distribution’ shall not include any distribution  
7 of any excess deferral under section 402(g)(2) or any  
8 excess contribution under section 401(k)(8), and any  
9 income on the excess deferral or contribution.

10 “(3) TREATMENT OF DISTRIBUTIONS OF CERTAIN EX-  
11 CESS DEFERRALS.—Notwithstanding section 72, if any ex-  
12 cess deferral under section 402(g)(2) attributable to a des-  
13 ignated Roth contribution is not distributed on or before  
14 the 1st April 15 following the close of the taxable year in  
15 which such excess deferral is made, the amount of such ex-  
16 cess deferral shall—

17 “(A) not be treated as investment in the contract,  
18 and

19 “(B) be included in gross income for the taxable  
20 year in which such excess is distributed.

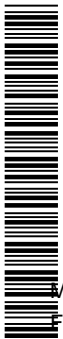
21 “(4) AGGREGATION RULES.—Section 72 shall be ap-  
22 plied separately with respect to distributions and payments  
23 from a designated Roth account and other distributions  
24 and payments from the plan.

25 “(e) OTHER DEFINITIONS.—For purposes of this  
26 section—

27 “(1) APPLICABLE RETIREMENT PLAN.—The term ‘ap-  
28 plicable retirement plan’ means—

29 “(A) an employees’ trust described in section  
30 401(a) which is exempt from tax under section 501(a),  
31 and

32 “(B) a plan under which amounts are contributed  
33 by an individual’s employer for an annuity contract de-  
34 scribed in section 403(b).



1           “(2) ELECTIVE DEFERRAL.—The term ‘elective deferral’ means any elective deferral described in subparagraph  
2           (A) or (C) of section 402(g)(3).”.

3           (b) EXCESS DEFERRALS.—Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended—

4           (1) by adding at the end of paragraph (1)(A) (as  
5           added by section 201(c)(1)) the following new sentence:  
6           “The preceding sentence shall not apply the portion of such  
7           excess as does not exceed the designated Roth contributions  
8           of the individual for the taxable year.”; and

9           (2) by inserting “(or would be included but for the last  
10          sentence thereof)” after “paragraph (1)” in paragraph  
11          (2)(A).

12          (c) ROLLOVERS.—Subparagraph (B) of section 402(c)(8)  
13          is amended by adding at the end the following:

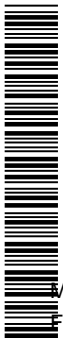
14          “If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account (as defined in section 402A), an eligible retirement plan with respect to such portion shall include only another designated Roth account and a Roth IRA.”.

15          (d) REPORTING REQUIREMENTS.—

16          (1) W-2 INFORMATION.—Section 6051(a)(8) is  
17          amended by inserting “, including the amount of designated Roth contributions (as defined in section 402A)”  
18          before the comma at the end.

19          (2) INFORMATION.—Section 6047 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

20          “(f) DESIGNATED ROTH CONTRIBUTIONS.—The Secretary  
21          shall require the plan administrator of each applicable retirement plan (as defined in section 402A) to make such returns  
22          and reports regarding designated Roth contributions (as defined in section 402A) to the Secretary, participants and beneficiaries of the plan, and such other persons as the Secretary  
23          may prescribe.”.



1 (e) CONFORMING AMENDMENTS.—

2 (1) Section 408A(e) is amended by adding after the  
3 first sentence the following new sentence: “Such term in-  
4 cludes a rollover contribution described in section  
5 402A(e)(3)(A).”.

6 (2) The table of sections for subpart A of part I of  
7 subchapter D of chapter 1 is amended by inserting after  
8 the item relating to section 402 the following new item:

“Sec. 402A. Optional treatment of elective deferrals as Roth  
contributions.”.

9 (f) EFFECTIVE DATE.—The amendments made by this  
10 section shall apply to taxable years beginning after December  
11 31, 2005.

12 **SEC. 618. NONREFUNDABLE CREDIT TO CERTAIN INDIVIDUALS FOR ELECTIVE DEFERRALS AND**  
13 **IRA CONTRIBUTIONS.**  
14

15 (a) IN GENERAL.—Subpart A of part IV of subchapter A  
16 of chapter 1 (relating to nonrefundable personal credits) is  
17 amended by inserting after section 25A the following new sec-  
18 tion:

19 **“SEC. 25B. ELECTIVE DEFERRALS AND IRA CONTRIBU-**  
20 **TIONS BY CERTAIN INDIVIDUALS.**

21 “(a) ALLOWANCE OF CREDIT.—In the case of an eligible  
22 individual, there shall be allowed as a credit against the tax im-  
23 posed by this subtitle for the taxable year an amount equal to  
24 the applicable percentage of so much of the qualified retirement  
25 savings contributions of the eligible individual for the taxable  
26 year as do not exceed \$2,000.

27 “(b) APPLICABLE PERCENTAGE.—For purposes of this  
28 section, the applicable percentage is the percentage determined  
29 in accordance with the following table:

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
	\$30,000		\$22,500		\$15,000	50
30,000	32,500	22,500	24,375	15,000	16,250	20
32,500	50,000	24,375	37,500	16,250	25,000	10



Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
50,000		37,500		25,000		

1           “(c) ELIGIBLE INDIVIDUAL.—For purposes of this  
2 section—

3           “(1) IN GENERAL.—The term ‘eligible individual’  
4 means any individual if such individual has attained the  
5 age of 18 as of the close of the taxable year.

6           “(2) DEPENDENTS AND FULL-TIME STUDENTS NOT  
7 ELIGIBLE.—The term ‘eligible individual’ shall not  
8 include—

9           “(A) any individual with respect to whom a deduc-  
10 tion under section 151 is allowed to another taxpayer  
11 for a taxable year beginning in the calendar year in  
12 which such individual’s taxable year begins, and

13           “(B) any individual who is a student (as defined  
14 in section 151(c)(4)).

15           “(d) QUALIFIED RETIREMENT SAVINGS CONTRIBU-  
16 TIONS.—For purposes of this section—

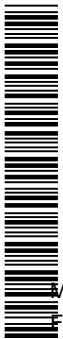
17           “(1) IN GENERAL.—The term ‘qualified retirement  
18 savings contributions’ means, with respect to any taxable  
19 year, the sum of—

20           “(A) the amount of the qualified retirement con-  
21 tributions (as defined in section 219(e)) made by the  
22 eligible individual,

23           “(B) the amount of—

24           “(i) any elective deferrals (as defined in sec-  
25 tion 402(g)(3)) of such individual, and

26           “(ii) any elective deferral of compensation by  
27 such individual under an eligible deferred com-  
28 pensation plan (as defined in section 457(b)) of an  
29 eligible employer described in section 457(e)(1)(A),  
30 and



1 “(C) the amount of voluntary employee contribu-  
2 tions by such individual to any qualified retirement  
3 plan (as defined in section 4974(c)).

4 “(2) REDUCTION FOR CERTAIN DISTRIBUTIONS.—

5 “(A) IN GENERAL.—The qualified retirement sav-  
6 ings contributions determined under paragraph (1)  
7 shall be reduced (but not below zero) by the sum of—

8 “(i) any distribution from a qualified retire-  
9 ment plan (as defined in section 4974(c)), or from  
10 an eligible deferred compensation plan (as defined  
11 in section 457(b)), received by the individual during  
12 the testing period which is includible in gross in-  
13 come, and

14 “(ii) any distribution from a Roth IRA or a  
15 Roth account received by the individual during the  
16 testing period which is not a qualified rollover con-  
17 tribution (as defined in section 408A(e)) to a Roth  
18 IRA or a rollover under section 402(c)(8)(B) to a  
19 Roth account.

20 “(B) TESTING PERIOD.—For purposes of subpara-  
21 graph (A), the testing period, with respect to a taxable  
22 year, is the period which includes—

23 “(i) such taxable year,

24 “(ii) the 2 preceding taxable years, and

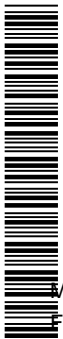
25 “(iii) the period after such taxable year and  
26 before the due date (including extensions) for filing  
27 the return of tax for such taxable year.

28 “(C) EXCEPTED DISTRIBUTIONS.—There shall not  
29 be taken into account under subparagraph (A)—

30 “(i) any distribution referred to in section  
31 72(p), 401(k)(8), 401(m)(6), 402(g)(2), 404(k), or  
32 408(d)(4), and

33 “(ii) any distribution to which section  
34 408A(d)(3) applies.

35 “(D) TREATMENT OF DISTRIBUTIONS RECEIVED  
36 BY SPOUSE OF INDIVIDUAL.—For purposes of deter-



1 mining distributions received by an individual under  
2 subparagraph (A) for any taxable year, any distribution  
3 received by the spouse of such individual shall be treat-  
4 ed as received by such individual if such individual and  
5 spouse file a joint return for such taxable year and for  
6 the taxable year during which the spouse receives the  
7 distribution.

8 “(e) ADJUSTED GROSS INCOME.—For purposes of this  
9 section, adjusted gross income shall be determined without re-  
10 gard to sections 911, 931, and 933.

11 “(f) INVESTMENT IN THE CONTRACT.—Notwithstanding  
12 any other provision of law, a qualified retirement savings con-  
13 tribution shall not fail to be included in determining the invest-  
14 ment in the contract for purposes of section 72 by reason of  
15 the credit under this section.

16 “(g) TERMINATION.—This section shall not apply to tax-  
17 able years beginning after December 31, 2006.”.

18 (b) CREDIT ALLOWED AGAINST REGULAR TAX AND AL-  
19 TERNATIVE MINIMUM TAX.—

20 (1) IN GENERAL.—Section 25B, as added by sub-  
21 section (a), is amended by inserting after subsection (f) the  
22 following new subsection:

23 “(g) LIMITATION BASED ON AMOUNT OF TAX.—The cred-  
24 it allowed under subsection (a) for the taxable year shall not  
25 exceed the excess of—

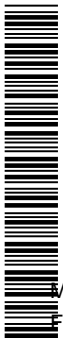
26 “(1) the sum of the regular tax liability (as defined in  
27 section 26(b)) plus the tax imposed by section 55, over

28 “(2) the sum of the credits allowable under this sub-  
29 part (other than this section and section 23) and section  
30 27 for the taxable year.”

31 (2) CONFORMING AMENDMENTS.—

32 (A) Section 24(b)(3)(B), as amended by sections  
33 201(b) and 203(d), is amended by striking “section  
34 23” and inserting “sections 23 and 25B”.

35 (B) Section 25(e)(1)(C), as amended by section  
36 201(b), is amended by inserting “25B,” after “24,”.



1 (C) Section 26(a)(1), as amended by sections  
2 201(b) and 203, is amended by striking “and 24” and  
3 inserting “, 24, and 25B”.

4 (D) Section 904(h), as amended by sections  
5 201(b) and 203, is amended by striking “and 24” and  
6 inserting “, 24, and 25B”.

7 (E) Section 1400C(d), as amended by sections  
8 201(b) and 203, is amended by striking “and 24” and  
9 inserting “, 24, and 25B”.

10 (c) CONFORMING AMENDMENT.—The table of sections for  
11 subpart A of part IV of subchapter A of chapter 1, as amended  
12 by section 432, is amended by inserting after the item relating  
13 to section 25A the following new item:

“Sec. 25B. Elective deferrals and IRA contributions by cer-  
tain individuals.”

14 (d) EFFECTIVE DATE.—The amendments made by this  
15 section shall apply to taxable years beginning after December  
16 31, 2001.

17 **SEC. 619. CREDIT FOR PENSION PLAN STARTUP COSTS**  
18 **OF SMALL EMPLOYERS.**

19 (a) IN GENERAL.—Subpart D of part IV of subchapter A  
20 of chapter 1 (relating to business related credits) is amended  
21 by adding at the end the following new section:

22 **“SEC. 45E. SMALL EMPLOYER PENSION PLAN STARTUP**  
23 **COSTS.**

24 “(a) GENERAL RULE.—For purposes of section 38, in the  
25 case of an eligible employer, the small employer pension plan  
26 startup cost credit determined under this section for any tax-  
27 able year is an amount equal to 50 percent of the qualified  
28 startup costs paid or incurred by the taxpayer during the tax-  
29 able year.

30 “(b) DOLLAR LIMITATION.—The amount of the credit de-  
31 termined under this section for any taxable year shall not  
32 exceed—

33 “(1) \$500 for the first credit year and each of the 2  
34 taxable years immediately following the first credit year,  
35 and

1           “(2) zero for any other taxable year.

2           “(c) ELIGIBLE EMPLOYER.—For purposes of this  
3 section—

4           “(1) IN GENERAL.—The term ‘eligible employer’ has  
5 the meaning given such term by section 408(p)(2)(C)(i).

6           “(2) REQUIREMENT FOR NEW QUALIFIED EMPLOYER  
7 PLANS.—Such term shall not include an employer if, during  
8 the 3-taxable year period immediately preceding the 1st  
9 taxable year for which the credit under this section is oth-  
10 erwise allowable for a qualified employer plan of the em-  
11 ployer, the employer or any member of any controlled  
12 group including the employer (or any predecessor of either)  
13 established or maintained a qualified employer plan with  
14 respect to which contributions were made, or benefits were  
15 accrued, for substantially the same employees as are in the  
16 qualified employer plan.

17           “(d) OTHER DEFINITIONS.—For purposes of this  
18 section—

19           “(1) QUALIFIED STARTUP COSTS.—

20           “(A) IN GENERAL.—The term ‘qualified startup  
21 costs’ means any ordinary and necessary expenses of an  
22 eligible employer which are paid or incurred in connec-  
23 tion with—

24           “(i) the establishment or administration of an  
25 eligible employer plan, or

26           “(ii) the retirement-related education of em-  
27 ployees with respect to such plan.

28           “(B) PLAN MUST HAVE AT LEAST 1 PARTICI-  
29 PANT.—Such term shall not include any expense in  
30 connection with a plan that does not have at least 1  
31 employee eligible to participate who is not a highly  
32 compensated employee.

33           “(2) ELIGIBLE EMPLOYER PLAN.—The term ‘eligible  
34 employer plan’ means a qualified employer plan within the  
35 meaning of section 4972(d).



1           “(3) FIRST CREDIT YEAR.—The term ‘first credit  
2           year’ means—

3                   “(A) the taxable year which includes the date that  
4                   the eligible employer plan to which such costs relate be-  
5                   comes effective, or

6                   “(B) at the election of the eligible employer, the  
7                   taxable year preceding the taxable year referred to in  
8                   subparagraph (A).

9           “(e) SPECIAL RULES.—For purposes of this section—

10                   “(1) AGGREGATION RULES.—All persons treated as a  
11                   single employer under subsection (a) or (b) of section 52,  
12                   or subsection (n) or (o) of section 414, shall be treated as  
13                   one person. All eligible employer plans shall be treated as  
14                   1 eligible employer plan.

15                   “(2) DISALLOWANCE OF DEDUCTION.—No deduction  
16                   shall be allowed for that portion of the qualified startup  
17                   costs paid or incurred for the taxable year which is equal  
18                   to the credit determined under subsection (a).

19                   “(3) ELECTION NOT TO CLAIM CREDIT.—This section  
20                   shall not apply to a taxpayer for any taxable year if such  
21                   taxpayer elects to have this section not apply for such tax-  
22                   able year.”

23           (b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS  
24           CREDIT.—Section 38(b) (defining current year business credit)  
25           is amended by striking “plus” at the end of paragraph (12),  
26           by striking the period at the end of paragraph (13) and insert-  
27           ing “, plus”, and by adding at the end the following new para-  
28           graph:

29                   “(14) in the case of an eligible employer (as defined  
30                   in section 45E(c)), the small employer pension plan startup  
31                   cost credit determined under section 45E(a).”

32           (c) CONFORMING AMENDMENTS.—

33                   (1) Section 39(d) is amended by adding at the end the  
34                   following new paragraph:

35                   “(10) NO CARRYBACK OF SMALL EMPLOYER PENSION  
36                   PLAN STARTUP COST CREDIT BEFORE JANUARY 1, 2002.—



1 No portion of the unused business credit for any taxable  
2 year which is attributable to the small employer pension  
3 plan startup cost credit determined under section 45E may  
4 be carried back to a taxable year beginning before January  
5 1, 2002.”

6 (2) Subsection (c) of section 196 is amended by strik-  
7 ing “and” at the end of paragraph (8), by striking the pe-  
8 riod at the end of paragraph (9) and inserting “, and”, and  
9 by adding at the end the following new paragraph:

10 “(10) the small employer pension plan startup cost  
11 credit determined under section 45E(a).”

12 (3) The table of sections for subpart D of part IV of  
13 subchapter A of chapter 1 is amended by adding at the end  
14 the following new item:

“Sec. 45E. Small employer pension plan startup costs.”

15 (d) **EFFECTIVE DATE.**—The amendments made by this  
16 section shall apply to costs paid or incurred in taxable years  
17 beginning after December 31, 2001, with respect to qualified  
18 employer plans established after such date.

19 **SEC. 620. ELIMINATION OF USER FEE FOR REQUESTS TO**  
20 **IRS REGARDING PENSION PLANS.**

21 (a) **ELIMINATION OF CERTAIN USER FEES.**—The Sec-  
22 retary of the Treasury or the Secretary’s delegate shall not re-  
23 quire payment of user fees under the program established  
24 under section 10511 of the Revenue Act of 1987 for requests  
25 to the Internal Revenue Service for determination letters with  
26 respect to the qualified status of a pension benefit plan main-  
27 tained solely by one or more eligible employers or any trust  
28 which is part of the plan. The preceding sentence shall not  
29 apply to any request—

30 (1) made after the later of—

31 (A) the fifth plan year the pension benefit plan is  
32 in existence; or

33 (B) the end of any remedial amendment period  
34 with respect to the plan beginning within the first 5  
35 plan years; or



1 (2) made by the sponsor of any prototype or similar  
2 plan which the sponsor intends to market to participating  
3 employers.

4 (b) PENSION BENEFIT PLAN.—For purposes of this sec-  
5 tion, the term “pension benefit plan” means a pension, profit-  
6 sharing, stock bonus, annuity, or employee stock ownership  
7 plan.

8 (c) ELIGIBLE EMPLOYER.—For purposes of this section,  
9 the term “eligible employer” means an eligible employer (as de-  
10 fined in section 408(p)(2)(C)(i)(I) of the Internal Revenue  
11 Code of 1986) which has at least one employee who is not a  
12 highly compensated employee (as defined in section 414(q))  
13 and is participating in the plan. The determination of whether  
14 an employer is an eligible employer under this section shall be  
15 made as of the date of the request described in subsection (a).

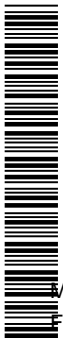
16 (d) DETERMINATION OF AVERAGE FEES CHARGED.—For  
17 purposes of any determination of average fees charged, any re-  
18 quest to which subsection (a) applies shall not be taken into  
19 account.

20 (e) EFFECTIVE DATE.—The provisions of this section  
21 shall apply with respect to requests made after December 31,  
22 2001.

23 **SEC. 621. TREATMENT OF NONRESIDENT ALIENS EN-**  
24 **GAGED IN INTERNATIONAL TRANSPOR-**  
25 **TATION SERVICES.**

26 (a) EXCLUSION FROM INCOME SOURCING RULES.—The  
27 second sentence of section 861(a)(3) (relating to gross income  
28 from sources within the United States) is amended by striking  
29 “except for purposes of sections 79 and 105 and subchapter  
30 D,”.

31 (b) EFFECTIVE DATE.—The amendment made by sub-  
32 section (a) shall apply to remuneration for services performed  
33 in plan years beginning after December 31, 2001.





## Subtitle C—Enhancing Fairness for Women

### SEC. 631. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

“(v) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.—

“(1) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an eligible participant to make additional elective deferrals in any plan year.

“(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—

“(A) IN GENERAL.—A plan shall not permit additional elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

“(i) the applicable dollar amount, or

“(ii) the excess (if any) of—

“(I) the participant’s compensation (as defined in section 415(c)(3)) for the year, over

“(II) any other elective deferrals of the participant for such year which are made without regard to this subsection.

“(B) APPLICABLE DOLLAR AMOUNT.—For purposes of this paragraph—

“(i) In the case of an applicable employer plan other than a plan described in section 401(k)(11) or 408(p), the applicable dollar amount shall be determined in accordance with the following table:

“For taxable years beginning in:	The applicable dollar amount is:
2002 .....	\$1,000
2003 .....	\$2,000
2004 .....	\$3,000
2005 .....	\$4,000
2006 and thereafter .....	\$5,000.

1                   “(ii) In the case of an applicable employer  
 2                   plan described in section 401(k)(11) or 408(p), the  
 3                   applicable dollar amount shall be determined in ac-  
 4                   cordance with the following table:

<b>“For taxable years beginning in:</b>	<b>The applicable dollar amount is:</b>
2002 .....	\$500
2003 .....	\$1,000
2004 .....	\$1,500
2005 .....	\$2,000
2006 and thereafter .....	\$2,500.

5                   “(C) COST-OF-LIVING ADJUSTMENT.—In the case  
 6                   of a year beginning after December 31, 2006, the Sec-  
 7                   retary shall adjust annually the \$5,000 amount in sub-  
 8                   paragraph (B)(i) and the \$2,500 amount in subpara-  
 9                   graph (B)(ii) for increases in the cost-of-living at the  
 10                  same time and in the same manner as adjustments  
 11                  under section 415(d); except that the base period taken  
 12                  into account shall be the calendar quarter beginning  
 13                  July 1, 2005, and any increase under this subpara-  
 14                  graph which is not a multiple of \$500 shall be rounded  
 15                  to the next lower multiple of \$500.”.

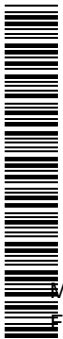
16                  “(3) TREATMENT OF CONTRIBUTIONS.—In the case of  
 17                  any contribution to a plan under paragraph (1)—

18                         “(A) such contribution shall not, with respect to  
 19                         the year in which the contribution is made—

20                                 “(i) be subject to any otherwise applicable lim-  
 21                                 itation contained in section 402(g), 402(h), 403(b),  
 22                                 404(a), 404(h), 408(k), 408(p), 415, or 457, or

23                                 “(ii) be taken into account in applying such  
 24                                 limitations to other contributions or benefits under  
 25                                 such plan or any other such plan, and

26                         “(B) except as provided in paragraph (4), such  
 27                         plan shall not be treated as failing to meet the require-  
 28                         ments of section 401(a)(4), 401(a)(26), 401(k)(3),  
 29                         401(k)(11), 401(k)(12), 403(b)(12), 408(k), 408(p),  
 30                         408B, 410(b), or 416 by reason of the making of (or  
 31                         the right to make) such contribution.



1 “(4) APPLICATION OF NONDISCRIMINATION RULES.—

2 “(A) IN GENERAL.—An applicable employer plan  
3 shall be treated as failing to meet the nondiscrimina-  
4 tion requirements under section 401(a)(4) with respect  
5 to benefits, rights, and features unless the plan allows  
6 all eligible participants to make the same election with  
7 respect to the additional elective deferrals under this  
8 subsection.

9 “(B) AGGREGATION.—For purposes of subpara-  
10 graph (A), all plans maintained by employers who are  
11 treated as a single employer under subsection (b), (c),  
12 (m), or (o) of section 414 shall be treated as 1 plan.

13 “(5) ELIGIBLE PARTICIPANT.—For purposes of this  
14 subsection, the term ‘eligible participant’ means, with re-  
15 spect to any plan year, a participant in a plan—

16 “(A) who has attained the age of 50 before the  
17 close of the plan year, and

18 “(B) with respect to whom no other elective defer-  
19 rals may (without regard to this subsection) be made  
20 to the plan for the plan year by reason of the applica-  
21 tion of any limitation or other restriction described in  
22 paragraph (3) or comparable limitation or restriction  
23 contained in the terms of the plan.

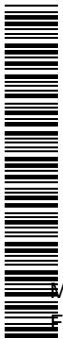
24 “(6) OTHER DEFINITIONS AND RULES.—For purposes  
25 of this subsection—

26 “(A) APPLICABLE EMPLOYER PLAN.—The term  
27 ‘applicable employer plan’ means—

28 “(i) an employees’ trust described in section  
29 401(a) which is exempt from tax under section  
30 501(a),

31 “(ii) a plan under which amounts are contrib-  
32 uted by an individual’s employer for an annuity  
33 contract described in section 403(b),

34 “(iii) an eligible deferred compensation plan  
35 under section 457 of an eligible employer described  
36 in section 457(e)(1)(A), and



1 “(iv) an arrangement meeting the require-  
2 ments of section 408 (k) or (p).

3 “(B) ELECTIVE DEFERRAL.—The term ‘elective  
4 deferral’ has the meaning given such term by sub-  
5 section (u)(2)(C).

6 “(C) EXCEPTION FOR SECTION 457 PLANS.—This  
7 subsection shall not apply to an applicable employer  
8 plan described in subparagraph (A)(iii) for any year to  
9 which section 457(b)(3) applies.”.

10 (b) EFFECTIVE DATE.—The amendment made by this sec-  
11 tion shall apply to contributions in taxable years beginning  
12 after December 31, 2001.

13 **SEC. 632. EQUITABLE TREATMENT FOR CONTRIBUTIONS**  
14 **OF EMPLOYEES TO DEFINED CONTRIBUTION**  
15 **PLANS.**

16 (a) EQUITABLE TREATMENT.—

17 (1) IN GENERAL.—Subparagraph (B) of section  
18 415(c)(1) (relating to limitation for defined contribution  
19 plans) is amended by striking “25 percent” and inserting  
20 “100 percent”.

21 (2) APPLICATION TO SECTION 403(b).—Section 403(b)  
22 is amended—

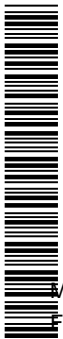
23 (A) by striking “the exclusion allowance for such  
24 taxable year” in paragraph (1) and inserting “the ap-  
25 plicable limit under section 415”,

26 (B) by striking paragraph (2), and

27 (C) by inserting “or any amount received by a  
28 former employee after the fifth taxable year following  
29 the taxable year in which such employee was termi-  
30 nated” before the period at the end of the second sen-  
31 tence of paragraph (3).

32 (3) CONFORMING AMENDMENTS.—

33 (A) Subsection (f) of section 72 is amended by  
34 striking “section 403(b)(2)(D)(iii)” and inserting  
35 “section 403(b)(2)(D)(iii), as in effect before the enact-



1           ment of the Economic Growth and Tax Relief Rec-  
2           onciliation Act of 2001”.

3           (B) Section 404(a)(10)(B) is amended by striking  
4           “, the exclusion allowance under section 403(b)(2),”.

5           (C) Section 415(a)(2) is amended by striking “,  
6           and the amount of the contribution for such portion  
7           shall reduce the exclusion allowance as provided in sec-  
8           tion 403(b)(2)”.

9           (D) Section 415(c)(3) is amended by adding at the  
10          end the following new subparagraph:

11          “(E) ANNUITY CONTRACTS.—In the case of an an-  
12          nuity contract described in section 403(b), the term  
13          ‘participant’s compensation’ means the participant’s in-  
14          cludible compensation determined under section  
15          403(b)(3).”.

16          (E) Section 415(c) is amended by striking para-  
17          graph (4).

18          (F) Section 415(e)(7) is amended to read as fol-  
19          lows:

20          “(7) CERTAIN CONTRIBUTIONS BY CHURCH PLANS  
21          NOT TREATED AS EXCEEDING LIMIT.—

22          “(A) IN GENERAL.—Notwithstanding any other  
23          provision of this subsection, at the election of a partici-  
24          pant who is an employee of a church or a convention  
25          or association of churches, including an organization  
26          described in section 414(e)(3)(B)(ii), contributions and  
27          other additions for an annuity contract or retirement  
28          income account described in section 403(b) with respect  
29          to such participant, when expressed as an annual addi-  
30          tion to such participant’s account, shall be treated as  
31          not exceeding the limitation of paragraph (1) if such  
32          annual addition is not in excess of \$10,000.

33          “(B) \$40,000 AGGREGATE LIMITATION.—The total  
34          amount of additions with respect to any participant  
35          which may be taken into account for purposes of this  
36          subparagraph for all years may not exceed \$40,000.



1 “(C) ANNUAL ADDITION.—For purposes of this  
2 paragraph, the term ‘annual addition’ has the meaning  
3 given such term by paragraph (2).”.

4 (G) Subparagraph (B) of section 402(g)(7) (as re-  
5 designated by section 611(e)(3)) is amended by insert-  
6 ing before the period at the end the following: “(as in  
7 effect before the enactment of the Economic Growth  
8 and Tax Relief Reconciliation Act of 2001”.

9 (H) Section 664(g) is amended—

10 (i) in paragraph (3)(E) by striking “limita-  
11 tions under section 415(c)” and inserting “applica-  
12 ble limitation under paragraph (7)”, and

13 (ii) by adding at the end the following new  
14 paragraph:

15 “(7) APPLICABLE LIMITATION.—

16 “(A) IN GENERAL.—For purposes of paragraph  
17 (3)(E), the applicable limitation under this paragraph  
18 with respect to a participant is an amount equal to the  
19 lesser of—

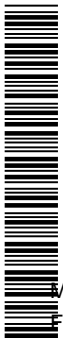
20 “(i) \$30,000, or

21 “(ii) 25 percent of the participant’s compensa-  
22 tion (as defined in section 415(c)(3)).

23 “(B) COST-OF-LIVING ADJUSTMENT.—The Sec-  
24 retary shall adjust annually the \$30,000 amount under  
25 subparagraph (A)(i) at the same time and in the same  
26 manner as under section 415(d), except that the base  
27 period shall be the calendar quarter beginning October  
28 1, 1993, and any increase under this subparagraph  
29 which is not a multiple of \$5,000 shall be rounded to  
30 the next lowest multiple of \$5,000.”.

31 (4) EFFECTIVE DATE.—The amendments made by  
32 this subsection shall apply to years beginning after Decem-  
33 ber 31, 2001.

34 (b) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—



1 (1) IN GENERAL.—Subsection (k) of section 415 is  
2 amended by adding at the end the following new para-  
3 graph:

4 “(4) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—  
5 For purposes of this section, any annuity contract de-  
6 scribed in section 403(b) for the benefit of a participant  
7 shall be treated as a defined contribution plan maintained  
8 by each employer with respect to which the participant has  
9 the control required under subsection (b) or (c) of section  
10 414 (as modified by subsection (h)). For purposes of this  
11 section, any contribution by an employer to a simplified  
12 employee pension plan for an individual for a taxable year  
13 shall be treated as an employer contribution to a defined  
14 contribution plan for such individual for such year.”.

15 (2) EFFECTIVE DATE.—

16 (A) IN GENERAL.—The amendment made by para-  
17 graph (1) shall apply to limitation years beginning  
18 after December 31, 1999.

19 (B) EXCLUSION ALLOWANCE.—Effective for limi-  
20 tation years beginning in 2000, in the case of any an-  
21 nuity contract described in section 403(b) of the Inter-  
22 nal Revenue Code of 1986, the amount of the contribu-  
23 tion disqualified by reason of section 415(g) of such  
24 Code shall reduce the exclusion allowance as provided  
25 in section 403(b)(2) of such Code.

26 (3) ELECTION TO MODIFY SECTION 403(b) EXCLUSION  
27 ALLOWANCE TO CONFORM TO SECTION 415 MODIFICA-  
28 TION.—In the case of taxable years beginning after Decem-  
29 ber 31, 1999, and before January 1, 2002, a plan may dis-  
30 regard the requirement in the regulations regarding the ex-  
31 clusion allowance under section 403(b)(2) of the Internal  
32 Revenue Code of 1986 that contributions to a defined ben-  
33 efit pension plan be treated as previously excluded amounts  
34 for purposes of the exclusion allowance.

35 (c) DEFERRED COMPENSATION PLANS OF STATE AND  
36 LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—



1 (1) IN GENERAL.—Subparagraph (B) of section  
 2 457(b)(2) (relating to salary limitation on eligible deferred  
 3 compensation plans) is amended by striking “33⅓ per-  
 4 cent” and inserting “100 percent”.

5 (2) EFFECTIVE DATE.—The amendment made by this  
 6 subsection shall apply to years beginning after December  
 7 31, 2001.

8 **SEC. 633. FASTER VESTING OF CERTAIN EMPLOYER**  
 9 **MATCHING CONTRIBUTIONS.**

10 (a) IN GENERAL.—Section 411(a) (relating to minimum  
 11 vesting standards) is amended—

12 (1) in paragraph (2), by striking “A plan” and insert-  
 13 ing “Except as provided in paragraph (12), a plan”; and

14 (2) by adding at the end the following:

15 “(12) FASTER VESTING FOR MATCHING CONTRIBU-  
 16 TIONS.—In the case of matching contributions (as defined  
 17 in section 401(m)(4)(A)), paragraph (2) shall be applied—

18 “(A) by substituting ‘3 years’ for ‘5 years’ in sub-  
 19 paragraph (A), and

20 “(B) by substituting the following table for the  
 21 table contained in subparagraph (B):

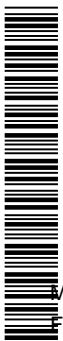
<b>“Years of service:</b>	<b>The nonforfeitable percentage is:</b>
2 .....	20
3 .....	40
4 .....	60
5 .....	80
6 .....	100.”.

22 (b) AMENDMENT OF ERISA.—Section 203(a) of the Em-  
 23 ployee Retirement Income Security Act of 1974 (29 U.S.C.  
 24 1053(a)) is amended—

25 (1) in paragraph (2), by striking “A plan” and insert-  
 26 ing “Except as provided in paragraph (4), a plan”, and

27 (2) by adding at the end the following:

28 “(4) In the case of matching contributions (as defined  
 29 in section 401(m)(4)(A) of the Internal Revenue Code of  
 30 1986), paragraph (2) shall be applied—





1 “(A) by substituting ‘3 years’ for ‘5 years’ in sub-  
2 paragraph (A), and

3 “(B) by substituting the following table for the  
4 table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2 .....	20
3 .....	40
4 .....	60
5 .....	80
6 .....	100.”.

5 (c) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in paragraph  
7 (2), the amendments made by this section shall apply to  
8 contributions for plan years beginning after December 31,  
9 2001.

10 (2) COLLECTIVE BARGAINING AGREEMENTS.—In the  
11 case of a plan maintained pursuant to one or more collec-  
12 tive bargaining agreements between employee representa-  
13 tives and one or more employers ratified by the date of the  
14 enactment of this Act, the amendments made by this sec-  
15 tion shall not apply to contributions on behalf of employees  
16 covered by any such agreement for plan years beginning be-  
17 fore the earlier of—

18 (A) the later of—

19 (i) the date on which the last of such collective  
20 bargaining agreements terminates (determined  
21 without regard to any extension thereof on or after  
22 such date of the enactment); or

23 (ii) January 1, 2002; or

24 (B) January 1, 2006.

25 (3) SERVICE REQUIRED.—With respect to any plan,  
26 the amendments made by this section shall not apply to  
27 any employee before the date that such employee has 1  
28 hour of service under such plan in any plan year to which  
29 the amendments made by this section apply.



1   **SEC. 634. MODIFICATION TO MINIMUM DISTRIBUTION**  
2       **RULES.**

3       The Secretary of the Treasury shall modify the life expect-  
4    ancy tables under the regulations relating to minimum distribu-  
5    tion requirements under sections 401(a)(9), 408(a)(6) and  
6    (b)(3), 403(b)(10), and 457(d)(2) of the Internal Revenue Code  
7    to reflect current life expectancy.

8    **SEC. 635. CLARIFICATION OF TAX TREATMENT OF DIVI-**  
9       **SION OF SECTION 457 PLAN BENEFITS UPON**  
10     **DIVORCE.**

11       (a) IN GENERAL.—Section 414(p)(11) (relating to applica-  
12    tion of rules to governmental and church plans) is amended—

13       (1) by inserting “or an eligible deferred compensation  
14       plan (within the meaning of section 457(b))” after “sub-  
15       section (e))”; and

16       (2) in the heading, by striking “GOVERNMENTAL AND  
17       CHURCH PLANS” and inserting “CERTAIN OTHER PLANS”.

18       (b) WAIVER OF CERTAIN DISTRIBUTION REQUIRE-  
19    MENTS.—Paragraph (10) of section 414(p) is amended by  
20    striking “and section 409(d)” and inserting “section 409(d),  
21    and section 457(d)”.

22       (c) TAX TREATMENT OF PAYMENTS FROM A SECTION 457  
23    PLAN.—Subsection (p) of section 414 is amended by redesignig-  
24    nating paragraph (12) as paragraph (13) and inserting after  
25    paragraph (11) the following new paragraph:

26       “(12) TAX TREATMENT OF PAYMENTS FROM A SEC-  
27       TION 457 PLAN.—If a distribution or payment from an eli-  
28       gible deferred compensation plan described in section  
29       457(b) is made pursuant to a qualified domestic relations  
30       order, rules similar to the rules of section 402(e)(1)(A)  
31       shall apply to such distribution or payment.”.

32       (d) EFFECTIVE DATE.—The amendment made by this sec-  
33    tion shall apply to transfers, distributions, and payments made  
34    after December 31, 2001.

35    **SEC. 636. PROVISIONS RELATING TO HARDSHIP DIS-**  
36       **TRIBUTIONS.**

37       (a) SAFE HARBOR RELIEF.—



1 (1) IN GENERAL.—The Secretary of the Treasury  
2 shall revise the regulations relating to hardship distribu-  
3 tions under section 401(k)(2)(B)(i)(IV) of the Internal  
4 Revenue Code of 1986 to provide that the period an em-  
5 ployee is prohibited from making elective and employee con-  
6 tributions in order for a distribution to be deemed nec-  
7 essary to satisfy financial need shall be equal to 6 months.

8 (2) EFFECTIVE DATE.—The revised regulations under  
9 this subsection shall apply to years beginning after Decem-  
10 ber 31, 2001.

11 (b) HARDSHIP DISTRIBUTIONS NOT TREATED AS ELIGI-  
12 BLE ROLLOVER DISTRIBUTIONS.—

13 (1) MODIFICATION OF DEFINITION OF ELIGIBLE  
14 ROLLOVER.—Subparagraph (C) of section 402(c)(4) (relat-  
15 ing to eligible rollover distribution) is amended to read as  
16 follows:

17 “(C) any distribution which is made upon hard-  
18 ship of the employee.”.

19 (2) EFFECTIVE DATE.—The amendment made by this  
20 subsection shall apply to distributions made after December  
21 31, 2001.

22 **SEC. 637. WAIVER OF TAX ON NONDEDUCTIBLE CON-**  
23 **TRIBUTIONS FOR DOMESTIC OR SIMILAR**  
24 **WORKERS.**

25 (a) IN GENERAL.—Section 4972(c)(6) (relating to excep-  
26 tions to nondeductible contributions), as amended by section  
27 616, is amended by striking “and” at the end of subparagraph  
28 (A), by striking the period and inserting “, or” at the end of  
29 subparagraph (B), and by inserting after subparagraph (B) the  
30 following new subparagraph:

31 “(C) so much of the contributions to a simple re-  
32 tirement account (within the meaning of section  
33 408(p)) or a simple plan (within the meaning of section  
34 401(k)(11)) which are not deductible when contributed  
35 solely because such contributions are not made in con-  
36 nection with a trade or business of the employer.”



1 (b) EXCLUSION OF CERTAIN CONTRIBUTIONS.—Section  
2 4972(c)(6), as amended by subsection (a), is amended by add-  
3 ing at the end the following new sentence: “Subparagraph (C)  
4 shall not apply to contributions made on behalf of the employer  
5 or a member of the employer’s family (as defined in section  
6 447(e)(1)).”.

7 (c) NO INFERENCE.—Nothing in the amendments made  
8 by this section shall be construed to infer the proper treatment  
9 of nondeductible contributions under the laws in effect before  
10 such amendments.

11 (d) EFFECTIVE DATE.—The amendments made by this  
12 section shall apply to taxable years beginning after December  
13 31, 2001.

## 14 **Subtitle D—Increasing Portability for** 15 **Participants**

### 16 **SEC. 641. ROLLOVERS ALLOWED AMONG VARIOUS** 17 **TYPES OF PLANS.**

18 (a) ROLLOVERS FROM AND TO SECTION 457 PLANS.—

19 (1) ROLLOVERS FROM SECTION 457 PLANS.—

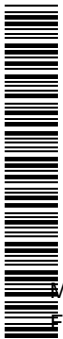
20 (A) IN GENERAL.—Section 457(e) (relating to  
21 other definitions and special rules) is amended by add-  
22 ing at the end the following:

23 “(16) ROLLOVER AMOUNTS.—

24 “(A) GENERAL RULE.—In the case of an eligible  
25 deferred compensation plan established and maintained  
26 by an employer described in subsection (e)(1)(A), if—

27 “(i) any portion of the balance to the credit of  
28 an employee in such plan is paid to such employee  
29 in an eligible rollover distribution (within the mean-  
30 ing of section 402(c)(4)),

31 “(ii) the employee transfers any portion of the  
32 property such employee receives in such distribu-  
33 tion to an eligible retirement plan described in sec-  
34 tion 402(c)(8)(B), and



1 “(iii) in the case of a distribution of property  
2 other than money, the amount so transferred con-  
3 sists of the property distributed,  
4 then such distribution (to the extent so transferred)  
5 shall not be includible in gross income for the taxable  
6 year in which paid.

7 “(B) CERTAIN RULES MADE APPLICABLE.—The  
8 rules of paragraphs (2) through (7) and (9) of section  
9 402(c) and section 402(f) shall apply for purposes of  
10 subparagraph (A).

11 “(C) REPORTING.—Rollovers under this para-  
12 graph shall be reported to the Secretary in the same  
13 manner as rollovers from qualified retirement plans (as  
14 defined in section 4974(c)).”.

15 (B) DEFERRAL LIMIT DETERMINED WITHOUT RE-  
16 GARD TO ROLLOVER AMOUNTS.—Section 457(b)(2) (de-  
17 fining eligible deferred compensation plan) is amended  
18 by inserting “(other than rollover amounts)” after  
19 “taxable year”.

20 (C) DIRECT ROLLOVER.—Paragraph (1) of section  
21 457(d) is amended by striking “and” at the end of sub-  
22 paragraph (A), by striking the period at the end of  
23 subparagraph (B) and inserting “, and”, and by insert-  
24 ing after subparagraph (B) the following:

25 “(C) in the case of a plan maintained by an em-  
26 ployer described in subsection (e)(1)(A), the plan meets  
27 requirements similar to the requirements of section  
28 401(a)(31).

29 Any amount transferred in a direct trustee-to-trustee trans-  
30 fer in accordance with section 401(a)(31) shall not be in-  
31 cludible in gross income for the taxable year of transfer.”.

32 (D) WITHHOLDING.—

33 (i) Paragraph (12) of section 3401(a) is  
34 amended by adding at the end the following:

35 “(E) under or to an eligible deferred compensation  
36 plan which, at the time of such payment, is a plan de-

1           scribed in section 457(b) which is maintained by an eli-  
2           gible employer described in section 457(e)(1)(A), or”.

3           (ii) Paragraph (3) of section 3405(c) is  
4           amended to read as follows:

5           “(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For pur-  
6           poses of this subsection, the term ‘eligible rollover distribu-  
7           tion’ has the meaning given such term by section  
8           402(f)(2)(A).”.

9           (iii) LIABILITY FOR WITHHOLDING.—Subpara-  
10          graph (B) of section 3405(d)(2) is amended by  
11          striking “or” at the end of clause (ii), by striking  
12          the period at the end of clause (iii) and inserting  
13          “, or”, and by adding at the end the following:

14          “(iv) section 457(b) and which is maintained  
15          by an eligible employer described in section  
16          457(e)(1)(A).”.

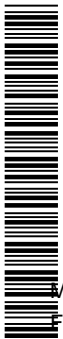
17          (2) ROLLOVERS TO SECTION 457 PLANS.—

18          (A) IN GENERAL.—Section 402(c)(8)(B) (defining  
19          eligible retirement plan) is amended by striking “and”  
20          at the end of clause (iii), by striking the period at the  
21          end of clause (iv) and inserting “, and”, and by insert-  
22          ing after clause (iv) the following new clause:

23          “(v) an eligible deferred compensation plan de-  
24          scribed in section 457(b) which is maintained by an  
25          eligible employer described in section  
26          457(e)(1)(A).”.

27          (B) SEPARATE ACCOUNTING.—Section 402(c) is  
28          amended by adding at the end the following new para-  
29          graph:

30          “(10) SEPARATE ACCOUNTING.—Unless a plan de-  
31          scribed in clause (v) of paragraph (8)(B) agrees to sepa-  
32          rately account for amounts rolled into such plan from eligi-  
33          ble retirement plans not described in such clause, the plan  
34          described in such clause may not accept transfers or roll-  
35          overs from such retirement plans.”.



1 (C) 10 PERCENT ADDITIONAL TAX.—Subsection  
2 (t) of section 72 (relating to 10-percent additional tax  
3 on early distributions from qualified retirement plans)  
4 is amended by adding at the end the following new  
5 paragraph:

6 “(9) SPECIAL RULE FOR ROLLOVERS TO SECTION 457  
7 PLANS.—For purposes of this subsection, a distribution  
8 from an eligible deferred compensation plan (as defined in  
9 section 457(b)) of an eligible employer described in section  
10 457(e)(1)(A) shall be treated as a distribution from a  
11 qualified retirement plan described in 4974(e)(1) to the ex-  
12 tent that such distribution is attributable to an amount  
13 transferred to an eligible deferred compensation plan from  
14 a qualified retirement plan (as defined in section  
15 4974(e)).”.

16 (b) ALLOWANCE OF ROLLOVERS FROM AND TO 403(b)  
17 PLANS.—

18 (1) ROLLOVERS FROM SECTION 403(b) PLANS.—Sec-  
19 tion 403(b)(8)(A)(ii) (relating to rollover amounts) is  
20 amended by striking “such distribution” and all that fol-  
21 lows and inserting “such distribution to an eligible retire-  
22 ment plan described in section 402(c)(8)(B), and”.

23 (2) ROLLOVERS TO SECTION 403(b) PLANS.—Section  
24 402(c)(8)(B) (defining eligible retirement plan), as amend-  
25 ed by subsection (a), is amended by striking “and” at the  
26 end of clause (iv), by striking the period at the end of  
27 clause (v) and inserting “, and”, and by inserting after  
28 clause (v) the following new clause:

29 “(vi) an annuity contract described in section  
30 403(b).”.

31 (c) EXPANDED EXPLANATION TO RECIPIENTS OF ROLL-  
32 OVER DISTRIBUTIONS.—Paragraph (1) of section 402(f) (relat-  
33 ing to written explanation to recipients of distributions eligible  
34 for rollover treatment) is amended by striking “and” at the end  
35 of subparagraph (C), by striking the period at the end of sub-



1 paragraph (D) and inserting “, and”, and by adding at the end  
2 the following new subparagraph:

3 “(E) of the provisions under which distributions  
4 from the eligible retirement plan receiving the distribu-  
5 tion may be subject to restrictions and tax con-  
6 sequences which are different from those applicable to  
7 distributions from the plan making such distribution.”.

8 (d) SPOUSAL ROLLOVERS.—Section 402(c)(9) (relating to  
9 rollover where spouse receives distribution after death of em-  
10 ployee) is amended by striking “; except that” and all that fol-  
11 lows up to the end period.

12 (e) CONFORMING AMENDMENTS.—

13 (1) Section 72(o)(4) is amended by striking “and  
14 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and  
15 457(e)(16)”.

16 (2) Section 219(d)(2) is amended by striking “or  
17 408(d)(3)” and inserting “408(d)(3), or 457(e)(16)”.

18 (3) Section 401(a)(31)(B) is amended by striking  
19 “and 403(a)(4)” and inserting “, 403(a)(4), 403(b)(8), and  
20 457(e)(16)”.

21 (4) Subparagraph (A) of section 402(f)(2) is amended  
22 by striking “or paragraph (4) of section 403(a)” and in-  
23 serting “, paragraph (4) of section 403(a), subparagraph  
24 (A) of section 403(b)(8), or subparagraph (A) of section  
25 457(e)(16)”.

26 (5) Paragraph (1) of section 402(f) is amended by  
27 striking “from an eligible retirement plan”.

28 (6) Subparagraphs (A) and (B) of section 402(f)(1)  
29 are amended by striking “another eligible retirement plan”  
30 and inserting “an eligible retirement plan”.

31 (7) Subparagraph (B) of section 403(b)(8) is amended  
32 to read as follows:

33 “(B) CERTAIN RULES MADE APPLICABLE.—The  
34 rules of paragraphs (2) through (7) and (9) of section  
35 402(c) and section 402(f) shall apply for purposes of





1           subparagraph (A), except that section 402(f) shall be  
2           applied to the payor in lieu of the plan administrator.”.

3           (8) Section 408(a)(1) is amended by striking “or  
4           403(b)(8),” and inserting “403(b)(8), or 457(e)(16)”.

5           (9) Subparagraphs (A) and (B) of section 415(b)(2)  
6           are each amended by striking “and 408(d)(3)” and insert-  
7           ing “403(b)(8), 408(d)(3), and 457(e)(16)”.

8           (10) Section 415(c)(2) is amended by striking “and  
9           408(d)(3)” and inserting “408(d)(3), and 457(e)(16)”.

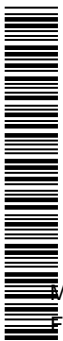
10          (11) Section 4973(b)(1)(A) is amended by striking “or  
11          408(d)(3)” and inserting “408(d)(3), or 457(e)(16)”.

12          (f) EFFECTIVE DATE; SPECIAL RULE.—

13          (1) EFFECTIVE DATE.—The amendments made by  
14          this section shall apply to distributions after December 31,  
15          2001.

16          (2) REASONABLE NOTICE.—No penalty shall be im-  
17          posed on a plan for the failure to provide the information  
18          required by the amendment made by subsection (c) with re-  
19          spect to any distribution made before the date that is 90  
20          days after the date on which the Secretary of the Treasury  
21          issues a safe harbor rollover notice after the date of the en-  
22          actment of this Act, if the administrator of such plan  
23          makes a reasonable attempt to comply with such require-  
24          ment.

25          (3) SPECIAL RULE.—Notwithstanding any other provi-  
26          sion of law, subsections (h)(3) and (h)(5) of section 1122  
27          of the Tax Reform Act of 1986 shall not apply to any dis-  
28          tribution from an eligible retirement plan (as defined in  
29          clause (iii) or (iv) of section 402(c)(8)(B) of the Internal  
30          Revenue Code of 1986) on behalf of an individual if there  
31          was a rollover to such plan on behalf of such individual  
32          which is permitted solely by reason of any amendment  
33          made by this section.



1   **SEC. 642. ROLLOVERS OF IRAS INTO WORKPLACE RE-**  
2   **TIREMENT PLANS.**

3       (a) IN GENERAL.—Subparagraph (A) of section 408(d)(3)  
4   (relating to rollover amounts) is amended by adding “or” at  
5   the end of clause (i), by striking clauses (ii) and (iii), and by  
6   adding at the end the following:

7               “(ii) the entire amount received (including  
8               money and any other property) is paid into an eli-  
9               gible retirement plan for the benefit of such indi-  
10              vidual not later than the 60th day after the date  
11              on which the payment or distribution is received,  
12              except that the maximum amount which may be  
13              paid into such plan may not exceed the portion of  
14              the amount received which is includible in gross in-  
15              come (determined without regard to this para-  
16              graph).”

17       For purposes of clause (ii), the term ‘eligible retirement  
18       plan’ means an eligible retirement plan described in  
19       clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B).”.

20   (b) CONFORMING AMENDMENTS.—

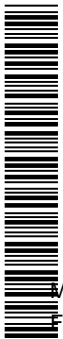
21       (1) Paragraph (1) of section 403(b) is amended by  
22   striking “section 408(d)(3)(A)(iii)” and inserting “section  
23   408(d)(3)(A)(ii)”.

24       (2) Clause (i) of section 408(d)(3)(D) is amended by  
25   striking “(i), (ii), or (iii)” and inserting “(i) or (ii)”.

26       (3) Subparagraph (G) of section 408(d)(3) is amended  
27   to read as follows:

28               “(G) SIMPLE RETIREMENT ACCOUNTS.—In the  
29               case of any payment or distribution out of a simple re-  
30               tirement account (as defined in subsection (p)) to  
31               which section 72(t)(6) applies, this paragraph shall not  
32               apply unless such payment or distribution is paid into  
33               another simple retirement account.”.

34   (c) EFFECTIVE DATE; SPECIAL RULE.—



1 (1) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to distributions after December 31,  
3 2001.

4 (2) SPECIAL RULE.—Notwithstanding any other provi-  
5 sion of law, subsections (h)(3) and (h)(5) of section 1122  
6 of the Tax Reform Act of 1986 shall not apply to any dis-  
7 tribution from an eligible retirement plan (as defined in  
8 clause (iii) or (iv) of section 402(c)(8)(B) of the Internal  
9 Revenue Code of 1986) on behalf of an individual if there  
10 was a rollover to such plan on behalf of such individual  
11 which is permitted solely by reason of the amendments  
12 made by this section.

13 **SEC. 643. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

14 (a) ROLLOVERS FROM EXEMPT TRUSTS.—Paragraph (2)  
15 of section 402(c) (relating to maximum amount which may be  
16 rolled over) is amended by adding at the end the following:  
17 “The preceding sentence shall not apply to such distribution to  
18 the extent—

19 “(A) such portion is transferred in a direct trust-  
20 ee-to-trustee transfer to a qualified trust which is part  
21 of a plan which is a defined contribution plan and  
22 which agrees to separately account for amounts so  
23 transferred, including separately accounting for the  
24 portion of such distribution which is includible in gross  
25 income and the portion of such distribution which is  
26 not so includible, or

27 “(B) such portion is transferred to an eligible re-  
28 tirement plan described in clause (i) or (ii) of para-  
29 graph (8)(B).”.

30 (b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLL-  
31 OVER DISTRIBUTIONS.—Subparagraph (B) of section  
32 401(a)(31) (relating to limitation) is amended by adding at the  
33 end the following: “The preceding sentence shall not apply to  
34 such distribution if the plan to which such distribution is  
35 transferred—



1 “(i) agrees to separately account for amounts  
2 so transferred, including separately accounting for  
3 the portion of such distribution which is includible  
4 in gross income and the portion of such distribu-  
5 tion which is not so includible, or

6 “(ii) is an eligible retirement plan described in  
7 clause (i) or (ii) of section 402(c)(8)(B).”.

8 (c) RULES FOR APPLYING SECTION 72 TO IRAS.—Para-  
9 graph (3) of section 408(d) (relating to special rules for apply-  
10 ing section 72) is amended by inserting at the end the fol-  
11 lowing:

12 “(H) APPLICATION OF SECTION 72.—

13 “(i) IN GENERAL.—If—

14 “(I) a distribution is made from an indi-  
15 vidual retirement plan, and

16 “(II) a rollover contribution is made to an  
17 eligible retirement plan described in section  
18 402(c)(8)(B)(iii), (iv), (v), or (vi) with respect  
19 to all or part of such distribution,  
20 then, notwithstanding paragraph (2), the rules of  
21 clause (ii) shall apply for purposes of applying sec-  
22 tion 72.

23 “(ii) APPLICABLE RULES.—In the case of a  
24 distribution described in clause (i)—

25 “(I) section 72 shall be applied separately  
26 to such distribution,

27 “(II) notwithstanding the pro rata alloca-  
28 tion of income on, and investment in, the con-  
29 tract to distributions under section 72, the por-  
30 tion of such distribution rolled over to an eligi-  
31 ble retirement plan described in clause (i) shall  
32 be treated as from income on the contract (to  
33 the extent of the aggregate income on the con-  
34 tract from all individual retirement plans of the  
35 distributee), and



1 “(III) appropriate adjustments shall be  
2 made in applying section 72 to other distribu-  
3 tions in such taxable year and subsequent tax-  
4 able years.”.

5 (d) EFFECTIVE DATE.—The amendments made by this  
6 section shall apply to distributions made after December 31,  
7 2001.

8 **SEC. 644. HARDSHIP EXCEPTION TO 60-DAY RULE.**

9 (a) EXEMPT TRUSTS.—Paragraph (3) of section 402(c)  
10 (relating to transfer must be made within 60 days of receipt)  
11 is amended to read as follows:

12 “(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF  
13 RECEIPT.—

14 “(A) IN GENERAL.—Except as provided in sub-  
15 paragraph (B), paragraph (1) shall not apply to any  
16 transfer of a distribution made after the 60th day fol-  
17 lowing the day on which the distributee received the  
18 property distributed.

19 “(B) HARDSHIP EXCEPTION.—The Secretary may  
20 waive the 60-day requirement under subparagraph (A)  
21 where the failure to waive such requirement would be  
22 against equity or good conscience, including casualty,  
23 disaster, or other events beyond the reasonable control  
24 of the individual subject to such requirement.”.

25 (b) IRAS.—Paragraph (3) of section 408(d) (relating to  
26 rollover contributions), as amended by section 643, is amended  
27 by adding after subparagraph (H) the following new subpara-  
28 graph:

29 “(I) WAIVER OF 60-DAY REQUIREMENT.—The Sec-  
30 retary may waive the 60-day requirement under sub-  
31 paragraphs (A) and (D) where the failure to waive such  
32 requirement would be against equity or good con-  
33 science, including casualty, disaster, or other events be-  
34 yond the reasonable control of the individual subject to  
35 such requirement.”.



1 (c) EFFECTIVE DATE.—The amendments made by this  
2 section shall apply to distributions after December 31, 2001.

3 **SEC. 645. TREATMENT OF FORMS OF DISTRIBUTION.**

4 (a) PLAN TRANSFERS.—

5 (1) AMENDMENT OF INTERNAL REVENUE CODE.—

6 Paragraph (6) of section 411(d) (relating to accrued ben-  
7 efit not to be decreased by amendment) is amended by add-  
8 ing at the end the following:

9 “(D) PLAN TRANSFERS.—

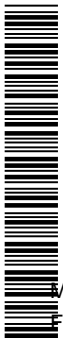
10 “(i) IN GENERAL.—A defined contribution  
11 plan (in this subparagraph referred to as the  
12 ‘transferee plan’) shall not be treated as failing to  
13 meet the requirements of this subsection merely be-  
14 cause the transferee plan does not provide some or  
15 all of the forms of distribution previously available  
16 under another defined contribution plan (in this  
17 subparagraph referred to as the ‘transferor plan’)  
18 to the extent that—

19 “(I) the forms of distribution previously  
20 available under the transferor plan applied to  
21 the account of a participant or beneficiary  
22 under the transferor plan that was transferred  
23 from the transferor plan to the transferee plan  
24 pursuant to a direct transfer rather than pur-  
25 suant to a distribution from the transferor  
26 plan,

27 “(II) the terms of both the transferor plan  
28 and the transferee plan authorize the transfer  
29 described in subclause (I),

30 “(III) the transfer described in subclause  
31 (I) was made pursuant to a voluntary election  
32 by the participant or beneficiary whose account  
33 was transferred to the transferee plan,

34 “(IV) the election described in subclause  
35 (III) was made after the participant or bene-



1           ficiary received a notice describing the con-  
2           sequences of making the election, and

3           “(V) the transferee plan allows the partici-  
4           pant or beneficiary described in subclause (III)  
5           to receive any distribution to which the partici-  
6           pant or beneficiary is entitled under the trans-  
7           feree plan in the form of a single sum distribu-  
8           tion.

9           “(ii) SPECIAL RULE FOR MERGERS, ETC.—  
10          Clause (i) shall apply to plan mergers and other  
11          transactions having the effect of a direct transfer,  
12          including consolidations of benefits attributable to  
13          different employers within a multiple employer  
14          plan.

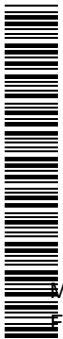
15          “(E) ELIMINATION OF FORM OF DISTRIBUTION.—  
16          Except to the extent provided in regulations, a defined  
17          contribution plan shall not be treated as failing to meet  
18          the requirements of this section merely because of the  
19          elimination of a form of distribution previously avail-  
20          able thereunder. This subparagraph shall not apply to  
21          the elimination of a form of distribution with respect  
22          to any participant unless—

23               “(i) a single sum payment is available to such  
24               participant at the same time or times as the form  
25               of distribution being eliminated, and

26               “(ii) such single sum payment is based on the  
27               same or greater portion of the participant’s account  
28               as the form of distribution being eliminated.”.

29          (2) AMENDMENT OF ERISA.—Section 204(g) of the  
30          Employee Retirement Income Security Act of 1974 (29  
31          U.S.C. 1054(g)) is amended by adding at the end the fol-  
32          lowing:

33               “(4)(A) A defined contribution plan (in this subparagraph  
34               referred to as the ‘transferee plan’) shall not be treated as fail-  
35               ing to meet the requirements of this subsection merely because  
36               the transferee plan does not provide some or all of the forms



1 of distribution previously available under another defined con-  
2 tribution plan (in this subparagraph referred to as the ‘trans-  
3 feror plan’) to the extent that—

4 “(i) the forms of distribution previously available  
5 under the transferor plan applied to the account of a par-  
6 ticipant or beneficiary under the transferor plan that was  
7 transferred from the transferor plan to the transferee plan  
8 pursuant to a direct transfer rather than pursuant to a dis-  
9 tribution from the transferor plan;

10 “(ii) the terms of both the transferor plan and the  
11 transferee plan authorize the transfer described in clause  
12 (i);

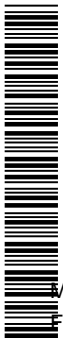
13 “(iii) the transfer described in clause (i) was made  
14 pursuant to a voluntary election by the participant or bene-  
15 ficiary whose account was transferred to the transferee  
16 plan;

17 “(iv) the election described in clause (iii) was made  
18 after the participant or beneficiary received a notice de-  
19 scribing the consequences of making the election; and

20 “(v) the transferee plan allows the participant or bene-  
21 ficiary described in clause (iii) to receive any distribution  
22 to which the participant or beneficiary is entitled under the  
23 transferee plan in the form of a single sum distribution.

24 “(B) Subparagraph (A) shall apply to plan mergers and  
25 other transactions having the effect of a direct transfer, includ-  
26 ing consolidations of benefits attributable to different employers  
27 within a multiple employer plan.

28 “(5) Except to the extent provided in regulations promul-  
29 gated by the Secretary of the Treasury, a defined contribution  
30 plan shall not be treated as failing to meet the requirements  
31 of this subsection merely because of the elimination of a form  
32 of distribution previously available thereunder. This paragraph  
33 shall not apply to the elimination of a form of distribution with  
34 respect to any participant unless—





1           “(A) a single sum payment is available to such partici-  
2       pant at the same time or times as the form of distribution  
3       being eliminated; and

4           “(B) such single sum payment is based on the same  
5       or greater portion of the participant’s account as the form  
6       of distribution being eliminated.”.

7           (3) EFFECTIVE DATE.—The amendments made by  
8       this subsection shall apply to years beginning after Decem-  
9       ber 31, 2001.

10       (b) REGULATIONS.—

11           (1) AMENDMENT OF INTERNAL REVENUE CODE.—  
12       Paragraph (6)(B) of section 411(d) (relating to accrued  
13       benefit not to be decreased by amendment) is amended by  
14       inserting after the second sentence the following: “The Sec-  
15       retary shall by regulations provide that this subparagraph  
16       shall not apply to any plan amendment which reduces or  
17       eliminates benefits or subsidies which create significant  
18       burdens or complexities for the plan and plan participants,  
19       unless such amendment adversely affects the rights of any  
20       participant in a more than de minimis manner.”.

21           (2) AMENDMENT OF ERISA.—Section 204(g)(2) of the  
22       Employee Retirement Income Security Act of 1974 (29  
23       U.S.C. 1054(g)(2)) is amended by inserting after the sec-  
24       ond sentence the following: “The Secretary of the Treasury  
25       shall by regulations provide that this paragraph shall not  
26       apply to any plan amendment which reduces or eliminates  
27       benefits or subsidies which create significant burdens or  
28       complexities for the plan and plan participants, unless such  
29       amendment adversely affects the rights of any participant  
30       in a more than de minimis manner.”.

31           (3) SECRETARY DIRECTED.—Not later than December  
32       31, 2003, the Secretary of the Treasury is directed to issue  
33       regulations under section 411(d)(6) of the Internal Rev-  
34       enue Code of 1986 and section 204(g) of the Employee Re-  
35       tirement Income Security Act of 1974, including the regu-  
36       lations required by the amendment made by this sub-



1 section. Such regulations shall apply to plan years begin-  
2 ning after December 31, 2003, or such earlier date as is  
3 specified by the Secretary of the Treasury.

4 **SEC. 646. RATIONALIZATION OF RESTRICTIONS ON DIS-**  
5 **TRIBUTIONS.**

6 (a) MODIFICATION OF SAME DESK EXCEPTION.—

7 (1) SECTION 401(k).—

8 (A) Section 401(k)(2)(B)(i)(I) (relating to quali-  
9 fied cash or deferred arrangements) is amended by  
10 striking “separation from service” and inserting “sever-  
11 ance from employment”.

12 (B) Subparagraph (A) of section 401(k)(10) (re-  
13 lating to distributions upon termination of plan or dis-  
14 position of assets or subsidiary) is amended to read as  
15 follows:

16 “(A) IN GENERAL.—An event described in this  
17 subparagraph is the termination of the plan without es-  
18 tablishment or maintenance of another defined con-  
19 tribution plan (other than an employee stock ownership  
20 plan as defined in section 4975(e)(7)).”.

21 (C) Section 401(k)(10) is amended—

22 (i) in subparagraph (B)—

23 (I) by striking “An event” in clause (i)  
24 and inserting “A termination”; and

25 (II) by striking “the event” in clause (i)  
26 and inserting “the termination”;

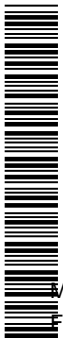
27 (ii) by striking subparagraph (C); and

28 (iii) by striking “OR DISPOSITION OF ASSETS  
29 OR SUBSIDIARY” in the heading.

30 (2) SECTION 403(b).—

31 (A) Paragraphs (7)(A)(ii) and (11)(A) of section  
32 403(b) are each amended by striking “separates from  
33 service” and inserting “has a severance from employ-  
34 ment”.

35 (B) The heading for paragraph (11) of section  
36 403(b) is amended by striking “SEPARATION FROM



1 SERVICE” and inserting “SEVERANCE FROM EMPLOY-  
2 MENT”.

3 (3) SECTION 457.—Clause (ii) of section 457(d)(1)(A)  
4 is amended by striking “is separated from service” and in-  
5 serting “has a severance from employment”.

6 (b) EFFECTIVE DATE.—The amendments made by this  
7 section shall apply to distributions after December 31, 2001.

8 **SEC. 647. PURCHASE OF SERVICE CREDIT IN GOVERN-**  
9 **MENTAL DEFINED BENEFIT PLANS.**

10 (a) SECTION 403(b) PLANS.—Subsection (b) of section  
11 403 is amended by adding at the end the following new para-  
12 graph:

13 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO PUR-  
14 CHASE PERMISSIVE SERVICE CREDIT.—No amount shall be  
15 includible in gross income by reason of a direct trustee-to-  
16 trustee transfer to a defined benefit governmental plan (as  
17 defined in section 414(d)) if such transfer is—

18 “(A) for the purchase of permissive service credit  
19 (as defined in section 415(n)(3)(A)) under such plan,  
20 or

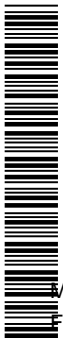
21 “(B) a repayment to which section 415 does not  
22 apply by reason of subsection (k)(3) thereof.”.

23 (b) SECTION 457 PLANS.—Subsection (e) of section 457,  
24 as amended by section 641, is amended by adding after para-  
25 graph (16) the following new paragraph:

26 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO PUR-  
27 CHASE PERMISSIVE SERVICE CREDIT.—No amount shall be  
28 includible in gross income by reason of a direct trustee-to-  
29 trustee transfer to a defined benefit governmental plan (as  
30 defined in section 414(d)) if such transfer is—

31 “(A) for the purchase of permissive service credit  
32 (as defined in section 415(n)(3)(A)) under such plan,  
33 or

34 “(B) a repayment to which section 415 does not  
35 apply by reason of subsection (k)(3) thereof.”.



1 (c) EFFECTIVE DATE.—The amendments made by this  
2 section shall apply to trustee-to-trustee transfers after Decem-  
3 ber 31, 2001.

4 **SEC. 648. EMPLOYERS MAY DISREGARD ROLLOVERS**  
5 **FOR PURPOSES OF CASH-OUT AMOUNTS.**

6 (a) QUALIFIED PLANS.—

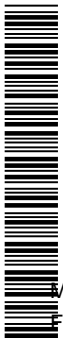
7 (1) AMENDMENT OF INTERNAL REVENUE CODE.—Sec-  
8 tion 411(a)(11) (relating to restrictions on certain manda-  
9 tory distributions) is amended by adding at the end the fol-  
10 lowing:

11 “(D) SPECIAL RULE FOR ROLLOVER CONTRIBU-  
12 TIONS.—A plan shall not fail to meet the requirements  
13 of this paragraph if, under the terms of the plan, the  
14 present value of the nonforfeitable accrued benefit is  
15 determined without regard to that portion of such ben-  
16 efit which is attributable to rollover contributions (and  
17 earnings allocable thereto). For purposes of this sub-  
18 paragraph, the term ‘rollover contributions’ means any  
19 rollover contribution under sections 402(c), 403(a)(4),  
20 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).”.

21 (2) AMENDMENT OF ERISA.—Section 203(e) of the  
22 Employee Retirement Income Security Act of 1974 (29  
23 U.S.C. 1053(c)) is amended by adding at the end the fol-  
24 lowing:

25 “(4) A plan shall not fail to meet the requirements of this  
26 subsection if, under the terms of the plan, the present value of  
27 the nonforfeitable accrued benefit is determined without regard  
28 to that portion of such benefit which is attributable to rollover  
29 contributions (and earnings allocable thereto). For purposes of  
30 this subparagraph, the term ‘rollover contributions’ means any  
31 rollover contribution under sections 402(c), 403(a)(4),  
32 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Internal  
33 Revenue Code of 1986.”.

34 (b) ELIGIBLE DEFERRED COMPENSATION PLANS.—Clause  
35 (i) of section 457(e)(9)(A) is amended by striking “such  
36 amount” and inserting “the portion of such amount which is



1 not attributable to rollover contributions (as defined in section  
2 411(a)(11)(D))”.

3 (c) EFFECTIVE DATE.—The amendments made by this  
4 section shall apply to distributions after December 31, 2001.

5 **SEC. 649. MINIMUM DISTRIBUTION AND INCLUSION RE-**  
6 **QUIREMENTS FOR SECTION 457 PLANS.**

7 (a) MINIMUM DISTRIBUTION REQUIREMENTS.—Paragraph  
8 (2) of section 457(d) (relating to distribution requirements) is  
9 amended to read as follows:

10 “(2) MINIMUM DISTRIBUTION REQUIREMENTS.—A  
11 plan meets the minimum distribution requirements of this  
12 paragraph if such plan meets the requirements of section  
13 401(a)(9).”.

14 (b) INCLUSION IN GROSS INCOME.—

15 (1) YEAR OF INCLUSION.—Subsection (a) of section  
16 457 (relating to year of inclusion in gross income) is  
17 amended to read as follows:

18 “(a) YEAR OF INCLUSION IN GROSS INCOME.—

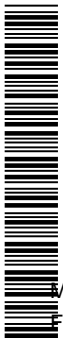
19 “(1) IN GENERAL.—Any amount of compensation de-  
20 ferred under an eligible deferred compensation plan, and  
21 any income attributable to the amounts so deferred, shall  
22 be includible in gross income only for the taxable year in  
23 which such compensation or other income—

24 “(A) is paid to the participant or other bene-  
25 ficiary, in the case of a plan of an eligible employer de-  
26 scribed in subsection (e)(1)(A), and

27 “(B) is paid or otherwise made available to the  
28 participant or other beneficiary, in the case of a plan  
29 of an eligible employer described in subsection  
30 (e)(1)(B).

31 “(2) SPECIAL RULE FOR ROLLOVER AMOUNTS.—To  
32 the extent provided in section 72(t)(9), section 72(t) shall  
33 apply to any amount includible in gross income under this  
34 subsection.”.

35 (2) CONFORMING AMENDMENTS.—



1 (A) So much of paragraph (9) of section 457(e) as  
2 precedes subparagraph (A) is amended to read as fol-  
3 lows:

4 “(9) BENEFITS OF TAX EXEMPT ORGANIZATION PLANS  
5 NOT TREATED AS MADE AVAILABLE BY REASON OF CER-  
6 TAIN ELECTIONS, ETC.—In the case of an eligible deferred  
7 compensation plan of an employer described in subsection  
8 (e)(1)(B)—”.

9 (B) Section 457(d) is amended by adding at the  
10 end the following new paragraph:

11 “(3) SPECIAL RULE FOR GOVERNMENT PLAN.—An eli-  
12 gible deferred compensation plan of an employer described  
13 in subsection (e)(1)(A) shall not be treated as failing to  
14 meet the requirements of this subsection solely by reason  
15 of making a distribution described in subsection  
16 (e)(9)(A).”.

17 (c) EFFECTIVE DATE.—The amendments made by sub-  
18 sections (a) and (b) shall apply to distributions after December  
19 31, 2001.

## 20 **Subtitle E—Strengthening Pension** 21 **Security and Enforcement**

### 22 **PART I—GENERAL PROVISIONS**

#### 23 **SEC. 651. REPEAL OF 160 PERCENT OF CURRENT LIABIL-** 24 **ITY FUNDING LIMIT.**

25 (a) AMENDMENTS TO INTERNAL REVENUE CODE.—Sec-  
26 tion 412(c)(7) (relating to full-funding limitation) is  
27 amended—

28 (1) by striking “the applicable percentage” in subpara-  
29 graph (A)(i)(I) and inserting “in the case of plan years be-  
30 ginning before January 1, 2004, the applicable percent-  
31 age”; and

32 (2) by amending subparagraph (F) to read as follows:

33 “(F) APPLICABLE PERCENTAGE.—For purposes of  
34 subparagraph (A)(i)(I), the applicable percentage shall  
35 be determined in accordance with the following table:



<b>“In the case of any plan year beginning in—</b>	<b>The applicable percentage is—</b>
2002 .....	165
2003 .....	170.”.

(b) AMENDMENT OF ERISA.—Section 302(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended—

(1) by striking “the applicable percentage” in subparagraph (A)(i)(I) and inserting “in the case of plan years beginning before January 1, 2004, the applicable percentage”, and

(2) by amending subparagraph (F) to read as follows:

“(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

<b>“In the case of any plan year beginning in calendar year—</b>	<b>The applicable percentage is—</b>
2002 .....	165
2003 .....	170.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2001.

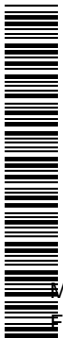
**SEC. 652. MAXIMUM CONTRIBUTION DEDUCTION RULES  
MODIFIED AND APPLIED TO ALL DEFINED  
BENEFIT PLANS.**

(a) IN GENERAL.—Subparagraph (D) of section 404(a)(1) (relating to special rule in case of certain plans) is amended to read as follows:

“(D) SPECIAL RULE IN CASE OF CERTAIN  
PLANS.—

“(i) IN GENERAL.—In the case of any defined benefit plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded current liability determined under section 412(l).

“(ii) PLANS WITH 100 OR LESS PARTICIPANTS.—For purposes of this subparagraph, in the



1 case of a plan which has 100 or less participants  
2 for the plan year, unfunded current liability shall  
3 not include the liability attributable to benefit in-  
4 creases for highly compensated employees (as de-  
5 fined in section 414(q)) resulting from a plan  
6 amendment which is made or becomes effective,  
7 whichever is later, within the last 2 years.

8 “(iii) RULE FOR DETERMINING NUMBER OF  
9 PARTICIPANTS.—For purposes of determining the  
10 number of plan participants, all defined benefit  
11 plans maintained by the same employer (or any  
12 member of such employer’s controlled group (within  
13 the meaning of section 412(l)(8)(C))) shall be  
14 treated as one plan, but only employees of such  
15 member or employer shall be taken into account.

16 “(iv) PLANS MAINTAINED BY PROFESSIONAL  
17 SERVICE EMPLOYERS.—In the case of a plan which,  
18 subject to section 4041 of the Employee Retire-  
19 ment Income Security Act of 1974, terminates dur-  
20 ing the plan year, clause (i) shall be applied by sub-  
21 stituting for unfunded current liability the amount  
22 required to make the plan sufficient for benefit li-  
23 abilities (within the meaning of section 4041(d) of  
24 such Act).”.

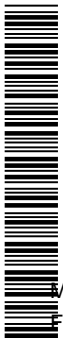
25 (b) CONFORMING AMENDMENT.—Paragraph (6) of section  
26 4972(c), as amended by sections 616 and 637, is amended—

27 (1) by striking subparagraph (A) and redesignating  
28 subparagraphs (B) and (C) as subparagraphs (A) and (B),  
29 respectively,

30 (2) by striking the first sentence following subpara-  
31 graph (B) (as so redesignated),

32 (3) by striking “subparagraph (B)” in the next to last  
33 sentence and inserting “subparagraph (A)”, and

34 (4) by striking “Subparagraph (C)” in the last sen-  
35 tence and inserting “Subparagraph (B)”.





1 (c) EFFECTIVE DATE.—The amendments made by this  
2 section shall apply to plan years beginning after December 31,  
3 2001.

4 **SEC. 653. EXCISE TAX RELIEF FOR SOUND PENSION**  
5 **FUNDING.**

6 (a) IN GENERAL.—Subsection (c) of section 4972 (relating  
7 to nondeductible contributions) is amended by adding at the  
8 end the following new paragraph:

9 “(7) DEFINED BENEFIT PLAN EXCEPTION.—In deter-  
10 mining the amount of nondeductible contributions for any  
11 taxable year, an employer may elect for such year not to  
12 take into account any contributions to a defined benefit  
13 plan except to the extent that such contributions exceed the  
14 full-funding limitation (as defined in section 412(c)(7), de-  
15 termined without regard to subparagraph (A)(i)(I) thereof).  
16 For purposes of this paragraph, the deductible limits under  
17 section 404(a)(7) shall first be applied to amounts contrib-  
18 uted to defined contribution plans and then to amounts de-  
19 scribed in this paragraph. If an employer makes an election  
20 under this paragraph for a taxable year, paragraph (6)  
21 shall not apply to such employer for such taxable year.”.

22 (b) EFFECTIVE DATE.—The amendment made by this sec-  
23 tion shall apply to years beginning after December 31, 2001.

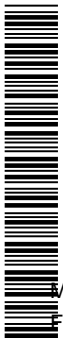
24 **SEC. 654. TREATMENT OF MULTIEMPLOYER PLANS**  
25 **UNDER SECTION 415.**

26 (a) COMPENSATION LIMIT.—

27 (1) IN GENERAL.—Paragraph (11) of section 415(b)  
28 (relating to limitation for defined benefit plans) is amended  
29 to read as follows:

30 “(11) SPECIAL LIMITATION RULE FOR GOVERN-  
31 MENTAL AND MULTIEMPLOYER PLANS.—In the case of a  
32 governmental plan (as defined in section 414(d)) or a mul-  
33 tiemployer plan (as defined in section 414(f)), subpara-  
34 graph (B) of paragraph (1) shall not apply.”.

35 (2) CONFORMING AMENDMENT.—Section 415(b)(7)  
36 (relating to benefits under certain collectively bargained



plans) is amended by inserting “(other than a multiemployer plan)” after “defined benefit plan” in the matter preceding subparagraph (A).

(b) COMBINING AND AGGREGATION OF PLANS.—

(1) COMBINING OF PLANS.—Subsection (f) of section 415 (relating to combining of plans) is amended by adding at the end the following:

“(3) EXCEPTION FOR MULTIEMPLOYER PLANS.—Notwithstanding paragraph (1) and subsection (g), a multiemployer plan (as defined in section 414(f)) shall not be combined or aggregated—

“(A) with any other plan which is not a multiemployer plan for purposes of applying subsection (b)(1)(B) to such other plan, or

“(B) with any other multiemployer plan for purposes of applying the limitations established in this section.”.

(2) CONFORMING AMENDMENT FOR AGGREGATION OF PLANS.—Subsection (g) of section 415 (relating to aggregation of plans) is amended by striking “The Secretary” and inserting “Except as provided in subsection (f)(3), the Secretary”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2001.

**SEC. 655. PROTECTION OF INVESTMENT OF EMPLOYEE CONTRIBUTIONS TO 401(k) PLANS.**

(a) IN GENERAL.—Section 1524(b) of the Taxpayer Relief Act of 1997 is amended to read as follows:

“(b) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to elective deferrals for plan years beginning after December 31, 1998.

“(2) NONAPPLICATION TO PREVIOUSLY ACQUIRED PROPERTY.—The amendments made by this section shall not apply to any elective deferral which is invested in assets

1 consisting of qualifying employer securities, qualifying em-  
2 ployer real property, or both, if such assets were acquired  
3 before January 1, 1999.”.

4 (b) EFFECTIVE DATE.—The amendment made by this sec-  
5 tion shall apply as if included in the provision of the Taxpayer  
6 Relief Act of 1997 to which it relates.

7 **SEC. 656. PROHIBITED ALLOCATIONS OF STOCK IN S**  
8 **CORPORATION ESOP.**

9 (a) IN GENERAL.—Section 409 (relating to qualifications  
10 for tax credit employee stock ownership plans) is amended by  
11 redesignating subsection (p) as subsection (q) and by inserting  
12 after subsection (o) the following new subsection:

13 “(p) PROHIBITED ALLOCATIONS OF SECURITIES IN AN S  
14 CORPORATION.—

15 “(1) IN GENERAL.—An employee stock ownership plan  
16 holding employer securities consisting of stock in an S cor-  
17 poration shall provide that no portion of the assets of the  
18 plan attributable to (or allocable in lieu of) such employer  
19 securities may, during a nonallocation year, accrue (or be  
20 allocated directly or indirectly under any plan of the em-  
21 ployer meeting the requirements of section 401(a)) for the  
22 benefit of any disqualified person.

23 “(2) FAILURE TO MEET REQUIREMENTS.—

24 “(A) IN GENERAL.—If a plan fails to meet the re-  
25 quirements of paragraph (1), the plan shall be treated  
26 as having distributed to any disqualified person the  
27 amount allocated to the account of such person in vio-  
28 lation of paragraph (1) at the time of such allocation.

29 “(B) CROSS REFERENCE.—

**“For excise tax relating to violations of para-**  
**graph (1) and ownership of synthetic equity, see**  
**section 4979A.**

30 “(3) NONALLOCATION YEAR.—For purposes of this  
31 subsection—

32 “(A) IN GENERAL.—The term ‘nonallocation year’  
33 means any plan year of an employee stock ownership  
34 plan if, at any time during such plan year—

1 “(i) such plan holds employer securities con-  
2 sisting of stock in an S corporation, and

3 “(ii) disqualified persons own at least 50 per-  
4 cent of the number of shares of stock in the S cor-  
5 poration.

6 “(B) ATTRIBUTION RULES.—For purposes of sub-  
7 paragraph (A)—

8 “(i) IN GENERAL.—The rules of section  
9 318(a) shall apply for purposes of determining  
10 ownership, except that—

11 “(I) in applying paragraph (1) thereof, the  
12 members of an individual’s family shall include  
13 members of the family described in paragraph  
14 (4)(D), and

15 “(II) paragraph (4) thereof shall not  
16 apply.

17 “(ii) DEEMED-OWNED SHARES.—Notwith-  
18 standing the employee trust exception in section  
19 318(a)(2)(B)(i), an individual shall be treated as  
20 owning deemed-owned shares of the individual.

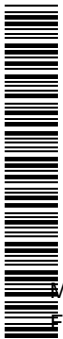
21 Solely for purposes of applying paragraph (5), this sub-  
22 paragraph shall be applied after the attribution rules of  
23 paragraph (5) have been applied.

24 “(4) DISQUALIFIED PERSON.—For purposes of this  
25 subsection—

26 “(A) IN GENERAL.—The term ‘disqualified person’  
27 means any person if—

28 “(i) the aggregate number of deemed-owned  
29 shares of such person and the members of such  
30 person’s family is at least 20 percent of the number  
31 of deemed-owned shares of stock in the S corpora-  
32 tion, or

33 “(ii) in the case of a person not described in  
34 clause (i), the number of deemed-owned shares of  
35 such person is at least 10 percent of the number



1 of deemed-owned shares of stock in such corpora-  
2 tion.

3 “(B) TREATMENT OF FAMILY MEMBERS.—In the  
4 case of a disqualified person described in subparagraph  
5 (A)(i), any member of such person’s family with  
6 deemed-owned shares shall be treated as a disqualified  
7 person if not otherwise treated as a disqualified person  
8 under subparagraph (A).

9 “(C) DEEMED-OWNED SHARES.—

10 “(i) IN GENERAL.—The term ‘deemed-owned  
11 shares’ means, with respect to any person—

12 “(I) the stock in the S corporation consti-  
13 tuting employer securities of an employee stock  
14 ownership plan which is allocated to such per-  
15 son under the plan, and

16 “(II) such person’s share of the stock in  
17 such corporation which is held by such plan but  
18 which is not allocated under the plan to partici-  
19 pants.

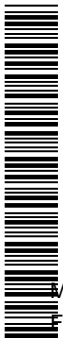
20 “(ii) PERSON’S SHARE OF UNALLOCATED  
21 STOCK.—For purposes of clause (i)(II), a person’s  
22 share of unallocated S corporation stock held by  
23 such plan is the amount of the unallocated stock  
24 which would be allocated to such person if the  
25 unallocated stock were allocated to all participants  
26 in the same proportions as the most recent stock  
27 allocation under the plan.

28 “(D) MEMBER OF FAMILY.—For purposes of this  
29 paragraph, the term ‘member of the family’ means,  
30 with respect to any individual—

31 “(i) the spouse of the individual,

32 “(ii) an ancestor or lineal descendant of the  
33 individual or the individual’s spouse,

34 “(iii) a brother or sister of the individual or  
35 the individual’s spouse and any lineal descendant of  
36 the brother or sister, and



1 “(iv) the spouse of any individual described in  
2 clause (ii) or (iii).

3 A spouse of an individual who is legally separated from  
4 such individual under a decree of divorce or separate  
5 maintenance shall not be treated as such individual’s  
6 spouse for purposes of this subparagraph.

7 “(5) TREATMENT OF SYNTHETIC EQUITY.—For pur-  
8 poses of paragraphs (3) and (4), in the case of a person  
9 who owns synthetic equity in the S corporation, except to  
10 the extent provided in regulations, the shares of stock in  
11 such corporation on which such synthetic equity is based  
12 shall be treated as outstanding stock in such corporation  
13 and deemed-owned shares of such person if such treatment  
14 of synthetic equity of 1 or more such persons results in—

15 “(A) the treatment of any person as a disqualified  
16 person, or

17 “(B) the treatment of any year as a nonallocation  
18 year.

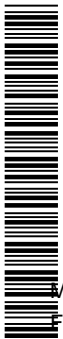
19 For purposes of this paragraph, synthetic equity shall be  
20 treated as owned by a person in the same manner as stock  
21 is treated as owned by a person under the rules of para-  
22 graphs (2) and (3) of section 318(a). If, without regard to  
23 this paragraph, a person is treated as a disqualified person  
24 or a year is treated as a nonallocation year, this paragraph  
25 shall not be construed to result in the person or year not  
26 being so treated.

27 “(6) DEFINITIONS.—For purposes of this  
28 subsection—

29 “(A) EMPLOYEE STOCK OWNERSHIP PLAN.—The  
30 term ‘employee stock ownership plan’ has the meaning  
31 given such term by section 4975(e)(7).

32 “(B) EMPLOYER SECURITIES.—The term ‘em-  
33 ployer security’ has the meaning given such term by  
34 section 409(l).

35 “(C) SYNTHETIC EQUITY.—The term ‘synthetic  
36 equity’ means any stock option, warrant, restricted



1 stock, deferred issuance stock right, or similar interest  
2 or right that gives the holder the right to acquire or  
3 receive stock of the S corporation in the future. Except  
4 to the extent provided in regulations, synthetic equity  
5 also includes a stock appreciation right, phantom stock  
6 unit, or similar right to a future cash payment based  
7 on the value of such stock or appreciation in such  
8 value.

9 “(7) REGULATIONS AND GUIDANCE.—

10 “(A) IN GENERAL.—The Secretary shall prescribe  
11 such regulations as may be necessary to carry out the  
12 purposes of this subsection.

13 “(B) AVOIDANCE OR EVASION.—The Secretary  
14 may, by regulation or other guidance of general appli-  
15 cability, provide that a nonallocation year occurs in any  
16 case in which the principal purpose of the ownership  
17 structure of an S corporation constitutes an avoidance  
18 or evasion of this subsection.”.

19 (b) COORDINATION WITH SECTION 4975(e)(7).—The last  
20 sentence of section 4975(e)(7) (defining employee stock owner-  
21 ship plan) is amended by inserting “, section 409(p),” after  
22 “409(n)”.

23 (c) EXCISE TAX.—

24 (1) APPLICATION OF TAX.—Subsection (a) of section  
25 4979A (relating to tax on certain prohibited allocations of  
26 employer securities) is amended—

27 (A) by striking “or” at the end of paragraph (1),

28 and

29 (B) by striking all that follows paragraph (2) and  
30 inserting the following:

31 “(3) there is any allocation of employer securities  
32 which violates the provisions of section 409(p), or a non-  
33 allocation year described in subsection (e)(2)(C) with re-  
34 spect to an employee stock ownership plan, or

35 “(4) any synthetic equity is owned by a disqualified  
36 person in any nonallocation year,

1 there is hereby imposed a tax on such allocation or ownership  
2 equal to 50 percent of the amount involved.”.

3 (2) LIABILITY.—Section 4979A(e) (defining liability  
4 for tax) is amended to read as follows:

5 “(e) LIABILITY FOR TAX.—The tax imposed by this sec-  
6 tion shall be paid—

7 “(1) in the case of an allocation referred to in para-  
8 graph (1) or (2) of subsection (a), by—

9 “(A) the employer sponsoring such plan, or

10 “(B) the eligible worker-owned cooperative,  
11 which made the written statement described in section  
12 664(g)(1)(E) or in section 1042(b)(3)(B) (as the case may  
13 be), and

14 “(2) in the case of an allocation or ownership referred  
15 to in paragraph (3) or (4) of subsection (a), by the S cor-  
16 poration the stock in which was so allocated or owned.”.

17 (3) DEFINITIONS.—Section 4979A(e) (relating to defi-  
18 nitions) is amended to read as follows:

19 “(e) DEFINITIONS AND SPECIAL RULES.—For purposes of  
20 this section—

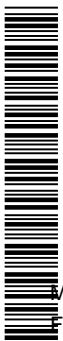
21 “(1) DEFINITIONS.—Except as provided in paragraph  
22 (2), terms used in this section have the same respective  
23 meanings as when used in sections 409 and 4978.

24 “(2) SPECIAL RULES RELATING TO TAX IMPOSED BY  
25 REASON OF PARAGRAPH (3) OR (4) OF SUBSECTION (a).—

26 “(A) PROHIBITED ALLOCATIONS.—The amount in-  
27 volved with respect to any tax imposed by reason of  
28 subsection (a)(3) is the amount allocated to the ac-  
29 count of any person in violation of section 409(p)(1).

30 “(B) SYNTHETIC EQUITY.—The amount involved  
31 with respect to any tax imposed by reason of subsection  
32 (a)(4) is the value of the shares on which the synthetic  
33 equity is based.

34 “(C) SPECIAL RULE DURING FIRST NONALLOCA-  
35 TION YEAR.—For purposes of subparagraph (A), the  
36 amount involved for the first nonallocation year of any





1 employee stock ownership plan shall be determined by  
2 taking into account the total value of all the deemed-  
3 owned shares of all disqualified persons with respect to  
4 such plan.

5 “(D) STATUTE OF LIMITATIONS.—The statutory  
6 period for the assessment of any tax imposed by this  
7 section by reason of paragraph (3) or (4) of subsection  
8 (a) shall not expire before the date which is 3 years  
9 from the later of—

10 “(i) the allocation or ownership referred to in  
11 such paragraph giving rise to such tax, or

12 “(ii) the date on which the Secretary is noti-  
13 fied of such allocation or ownership.”.

14 (d) EFFECTIVE DATES.—

15 (1) IN GENERAL.—The amendments made by this sec-  
16 tion shall apply to plan years beginning after December 31,  
17 2004.

18 (2) EXCEPTION FOR CERTAIN PLANS.—In the case of  
19 any—

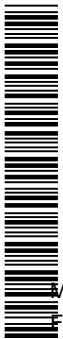
20 (A) employee stock ownership plan established  
21 after March 14, 2001, or

22 (B) employee stock ownership plan established on  
23 or before such date if employer securities held by the  
24 plan consist of stock in a corporation with respect to  
25 which an election under section 1362(a) of the Internal  
26 Revenue Code of 1986 is not in effect on such date,  
27 the amendments made by this section shall apply to plan  
28 years ending after March 14, 2001.

29 **SEC. 657. AUTOMATIC ROLLOVERS OF CERTAIN MANDA-**  
30 **TORY DISTRIBUTIONS.**

31 (a) DIRECT TRANSFERS OF MANDATORY DISTRIBU-  
32 TIONS.—

33 (1) IN GENERAL.—Section 401(a)(31) (relating to op-  
34 tional direct transfer of eligible rollover distributions), as  
35 amended by section 643, is amended by redesignating sub-  
36 paragraphs (B), (C), and (D) as subparagraphs (C), (D),



1 and (E), respectively, and by inserting after subparagraph  
2 (A) the following new subparagraph:

3 “(B) CERTAIN MANDATORY DISTRIBUTIONS.—

4 “(i) IN GENERAL.—In case of a trust which is  
5 part of an eligible plan, such trust shall not con-  
6 stitute a qualified trust under this section unless  
7 the plan of which such trust is a part provides that  
8 if—

9 “(I) a distribution described in clause (ii)  
10 in excess of \$1,000 is made, and

11 “(II) the distributee does not make an  
12 election under subparagraph (A) and does not  
13 elect to receive the distribution directly,  
14 the plan administrator shall make such transfer to  
15 an individual retirement plan of a designated trust-  
16 ee or issuer and shall notify the distributee in writ-  
17 ing (either separately or as part of the notice under  
18 section 402(f)) that the distribution may be trans-  
19 ferred to another individual retirement plan.

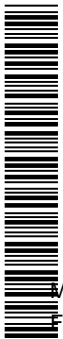
20 “(ii) ELIGIBLE PLAN.—For purposes of clause  
21 (i), the term ‘eligible plan’ means a plan which pro-  
22 vides that any nonforfeitable accrued benefit for  
23 which the present value (as determined under sec-  
24 tion 411(a)(11)) does not exceed \$5,000 shall be  
25 immediately distributed to the participant.”.

26 (2) CONFORMING AMENDMENTS.—

27 (A) The heading of section 401(a)(31) is amended  
28 by striking “OPTIONAL DIRECT” and inserting “DI-  
29 RECT”.

30 (B) Section 401(a)(31)(C), as redesignated by  
31 paragraph (1), is amended by striking “Subparagraph  
32 (A)” and inserting “Subparagraphs (A) and (B)”.

33 (b) NOTICE REQUIREMENT.—Subparagraph (A) of section  
34 402(f)(1) is amended by inserting before the comma at the end  
35 the following: “and that the automatic distribution by direct



1 transfer applies to certain distributions in accordance with sec-  
2 tion 401(a)(31)(B)”.

3 (c) FIDUCIARY RULES.—

4 (1) IN GENERAL.—Section 404(c) of the Employee Re-  
5 tirement Income Security Act of 1974 (29 U.S.C. 1104(c))  
6 is amended by adding at the end the following new para-  
7 graph:

8 “(3) In the case of a pension plan which makes a  
9 transfer to an individual retirement account or annuity of  
10 a designated trustee or issuer under section 401(a)(31)(B)  
11 of the Internal Revenue Code of 1986, the participant or  
12 beneficiary shall, for purposes of paragraph (1), be treated  
13 as exercising control over the assets in the account or an-  
14 nuity upon—

15 “(A) the earlier of the earlier of—

16 “(i) a rollover of all or a portion of the  
17 amount to another individual retirement account or  
18 annuity; or

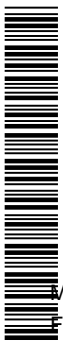
19 “(ii) one year after the transfer is made; or

20 “(B) if the transfer is made in a manner con-  
21 sistent with guidance provided by the Secretary.”.

22 (2) REGULATIONS.—

23 (A) AUTOMATIC ROLLOVER SAFE HARBOR.—Not  
24 later than 3 years after the date of enactment of this  
25 Act, the Secretary of Labor shall prescribe regulations  
26 providing for safe harbors under which the designation  
27 of an institution and investment of funds in accordance  
28 with section 401(a)(31)(B) of the Internal Revenue  
29 Code of 1986 is deemed to satisfy the fiduciary require-  
30 ments of section 404(a) of the Employee Retirement  
31 Income Security Act of 1974 (29 U.S.C. 1104(a)).

32 (B) USE OF LOW-COST INDIVIDUAL RETIREMENT  
33 PLANS.—The Secretary of the Treasury and the Sec-  
34 retary of Labor may provide, and shall give consider-  
35 ation to providing, special relief with respect to the use  
36 of low-cost individual retirement plans for purposes of



1 transfers under section 401(a)(31)(B) of the Internal  
2 Revenue Code of 1986 and for other uses that promote  
3 the preservation of assets for retirement income pur-  
4 poses.

5 (d) EFFECTIVE DATE.—The amendments made by this  
6 section shall apply to distributions made after final regulations  
7 implementing subsection (c)(2)(A) are prescribed.

8 **SEC. 658. CLARIFICATION OF TREATMENT OF CON-**  
9 **TRIBUTIONS TO MULTIEMPLOYER PLAN.**

10 (a) NOT CONSIDERED METHOD OF ACCOUNTING.—For  
11 purposes of section 446 of the Internal Revenue Code of 1986,  
12 a determination under section 404(a)(6) of such Code regard-  
13 ing the taxable year with respect to which a contribution to a  
14 multiemployer pension plan is deemed made shall not be treat-  
15 ed as a method of accounting of the taxpayer. No deduction  
16 shall be allowed for any taxable year for any contribution to a  
17 multiemployer pension plan with respect to which a deduction  
18 was previously allowed.

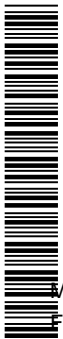
19 (b) REGULATIONS.—The Secretary of the Treasury shall  
20 promulgate such regulations as necessary to clarify that a tax-  
21 payer shall not be allowed an aggregate amount of deductions  
22 for contributions to a multiemployer pension plan which ex-  
23 ceeds the amount of such contributions made or deemed made  
24 under section 404(a)(6) of the Internal Revenue Code of 1986  
25 to such plan.

26 (c) EFFECTIVE DATE.—Subsection (a), and any regula-  
27 tions promulgated under subsection (b), shall be effective for  
28 years ending after the date of the enactment of this Act.

29 **PART II—TREATMENT OF PLAN AMENDMENTS**  
30 **REDUCING FUTURE BENEFIT ACCRUALS**

31 **SEC. 659. EXCISE TAX ON FAILURE TO PROVIDE NOTICE**  
32 **BY DEFINED BENEFIT PLANS SIGNIFI-**  
33 **CANTLY REDUCING FUTURE BENEFIT AC-**  
34 **CRUALS.**

35 (a) AMENDMENT OF INTERNAL REVENUE CODE.—



1 (1) IN GENERAL.—Chapter 43 (relating to qualified  
2 pension, etc., plans) is amended by adding at the end the  
3 following new section:

4 **“SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUC-**  
5 **ING BENEFIT ACCRUALS TO SATISFY NOTICE**  
6 **REQUIREMENTS.**

7 “(a) IMPOSITION OF TAX.—There is hereby imposed a tax  
8 on the failure of any applicable pension plan to meet the re-  
9 quirements of subsection (e) with respect to any applicable in-  
10 dividual.

11 “(b) AMOUNT OF TAX.—

12 “(1) IN GENERAL.—The amount of the tax imposed by  
13 subsection (a) on any failure with respect to any applicable  
14 individual shall be \$100 for each day in the noncompliance  
15 period with respect to such failure.

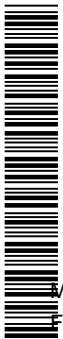
16 “(2) NONCOMPLIANCE PERIOD.—For purposes of this  
17 section, the term ‘noncompliance period’ means, with re-  
18 spect to any failure, the period beginning on the date the  
19 failure first occurs and ending on the date the notice to  
20 which the failure relates is provided or the failure is other-  
21 wise corrected.

22 “(c) LIMITATIONS ON AMOUNT OF TAX.—

23 “(1) TAX NOT TO APPLY WHERE FAILURE NOT DIS-  
24 COVERED AND REASONABLE DILIGENCE EXERCISED.—No  
25 tax shall be imposed by subsection (a) on any failure dur-  
26 ing any period for which it is established to the satisfaction  
27 of the Secretary that any person subject to liability for the  
28 tax under subsection (d) did not know that the failure ex-  
29 isted and exercised reasonable diligence to meet the re-  
30 quirements of subsection (e).

31 “(2) TAX NOT TO APPLY TO FAILURES CORRECTED  
32 WITHIN 30 DAYS.—No tax shall be imposed by subsection  
33 (a) on any failure if—

34 “(A) any person subject to liability for the tax  
35 under subsection (d) exercised reasonable diligence to  
36 meet the requirements of subsection (e), and



1 “(B) such person provides the notice described in  
2 subsection (e) during the 30-day period beginning on  
3 the first date such person knew, or exercising reason-  
4 able diligence would have known, that such failure ex-  
5 isted.

6 “(3) OVERALL LIMITATION FOR UNINTENTIONAL  
7 FAILURES.—

8 “(A) IN GENERAL.—If the person subject to liabil-  
9 ity for tax under subsection (d) exercised reasonable  
10 diligence to meet the requirements of subsection (e),  
11 the tax imposed by subsection (a) for failures during  
12 the taxable year of the employer (or, in the case of a  
13 multiemployer plan, the taxable year of the trust form-  
14 ing part of the plan) shall not exceed \$500,000. For  
15 purposes of the preceding sentence, all multiemployer  
16 plans of which the same trust forms a part shall be  
17 treated as 1 plan.

18 “(B) TAXABLE YEARS IN THE CASE OF CERTAIN  
19 CONTROLLED GROUPS.—For purposes of this para-  
20 graph, if all persons who are treated as a single em-  
21 ployer for purposes of this section do not have the same  
22 taxable year, the taxable years taken into account shall  
23 be determined under principles similar to the principles  
24 of section 1561.

25 “(4) WAIVER BY SECRETARY.—In the case of a failure  
26 which is due to reasonable cause and not to willful neglect,  
27 the Secretary may waive part or all of the tax imposed by  
28 subsection (a) to the extent that the payment of such tax  
29 would be excessive or otherwise inequitable relative to the  
30 failure involved.

31 “(d) LIABILITY FOR TAX.—The following shall be liable  
32 for the tax imposed by subsection (a):

33 “(1) In the case of a plan other than a multiemployer  
34 plan, the employer.

35 “(2) In the case of a multiemployer plan, the plan.



1           “(e) NOTICE REQUIREMENTS FOR PLANS SIGNIFICANTLY  
2     REDUCING BENEFIT ACCRUALS.—

3           “(1) IN GENERAL.—If an applicable pension plan is  
4     amended to provide for a significant reduction in the rate  
5     of future benefit accrual, the plan administrator shall pro-  
6     vide written notice to each applicable individual (and to  
7     each employee organization representing applicable individ-  
8     uals).

9           “(2) NOTICE.—The notice required by paragraph (1)  
10    shall be written in a manner calculated to be understood  
11    by the average plan participant and shall provide sufficient  
12    information (as determined in accordance with regulations  
13    prescribed by the Secretary) to allow applicable individuals  
14    to understand the effect of the plan amendment. The Sec-  
15    retary may provide a simplified form of notice for, or ex-  
16    empt from any notice requirement, a plan—

17           “(A) which has fewer than 100 participants who  
18    have accrued a benefit under the plan, or

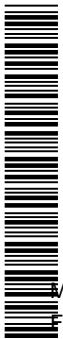
19           “(B) which offers participants the option to choose  
20    between the new benefit formula and the old benefit  
21    formula.

22           “(3) TIMING OF NOTICE.—Except as provided in regu-  
23    lations, the notice required by paragraph (1) shall be pro-  
24    vided within a reasonable time before the effective date of  
25    the plan amendment.

26           “(4) DESIGNEES.—Any notice under paragraph (1)  
27    may be provided to a person designated, in writing, by the  
28    person to which it would otherwise be provided.

29           “(5) NOTICE BEFORE ADOPTION OF AMENDMENT.—A  
30    plan shall not be treated as failing to meet the require-  
31    ments of paragraph (1) merely because notice is provided  
32    before the adoption of the plan amendment if no material  
33    modification of the amendment occurs before the amend-  
34    ment is adopted.

35           “(f) DEFINITIONS AND SPECIAL RULES.—For purposes of  
36    this section—



1 “(1) APPLICABLE INDIVIDUAL.—The term ‘applicable  
2 individual’ means, with respect to any plan amendment—

3 “(A) each participant in the plan, and

4 “(B) any beneficiary who is an alternate payee  
5 (within the meaning of section 414(p)(8)) under an ap-  
6 plicable qualified domestic relations order (within the  
7 meaning of section 414(p)(1)(A)),

8 whose rate of future benefit accrual under the plan may  
9 reasonably be expected to be significantly reduced by such  
10 plan amendment.

11 “(2) APPLICABLE PENSION PLAN.—The term ‘applica-  
12 ble pension plan’ means—

13 “(A) any defined benefit plan, or

14 “(B) an individual account plan which is subject  
15 to the funding standards of section 412.

16 Such term shall not include a governmental plan (within  
17 the meaning of section 414(d)) or a church plan (within the  
18 meaning of section 414(e)) with respect to which the elec-  
19 tion provided by section 410(d) has not been made.

20 “(3) EARLY RETIREMENT.—A plan amendment which  
21 eliminates or significantly reduces any early retirement  
22 benefit or retirement-type subsidy (within the meaning of  
23 section 411(d)(6)(B)(i)) shall be treated as having the ef-  
24 fect of significantly reducing the rate of future benefit ac-  
25 crual.

26 “(g) NEW TECHNOLOGIES.—The Secretary may by regula-  
27 tions allow any notice under subsection (e) to be provided by  
28 using new technologies.”.

29 (2) CLERICAL AMENDMENT.—The table of sections for  
30 chapter 43 is amended by adding at the end the following  
31 new item:

“Sec. 4980F. Failure of applicable plans reducing benefit ac-  
cruals to satisfy notice requirements.”.

32 (b) AMENDMENT OF ERISA.—Subsection (h) of section  
33 204 of the Employee Retirement Income Security Act of 1974  
34 (29 U.S.C. 1054) is amended to read as follows:



1           “(h)(1) An applicable pension plan may not be amended  
2 so as to provide for a significant reduction in the rate of future  
3 benefit accrual unless the plan administrator provides the no-  
4 tice described in paragraph (2) to each applicable individual  
5 (and to each employee organization representing applicable in-  
6 dividuals).

7           “(2) The notice required by paragraph (1) shall be written  
8 in a manner calculated to be understood by the average plan  
9 participant and shall provide sufficient information (as deter-  
10 mined in accordance with regulations prescribed by the Sec-  
11 retary of the Treasury) to allow applicable individuals to under-  
12 stand the effect of the plan amendment. The Secretary of the  
13 Treasury may provide a simplified form of notice for, or exempt  
14 from any notice requirement, a plan—

15                 “(A) which has fewer than 100 participants who have  
16 accrued a benefit under the plan, or

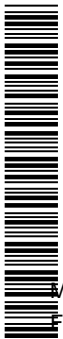
17                 “(B) which offers participants the option to choose be-  
18 tween the new benefit formula and the old benefit formula.

19           “(3) Except as provided in regulations prescribed by the  
20 Secretary of the Treasury, the notice required by paragraph (1)  
21 shall be provided within a reasonable time before the effective  
22 date of the plan amendment.

23           “(4) Any notice under paragraph (1) may be provided to  
24 a person designated, in writing, by the person to which it would  
25 otherwise be provided.

26           “(5) A plan shall not be treated as failing to meet the re-  
27 quirements of paragraph (1) merely because notice is provided  
28 before the adoption of the plan amendment if no material modi-  
29 fication of the amendment occurs before the amendment is  
30 adopted.

31           “(6)(A) In the case of any egregious failure to meet any  
32 requirement of this subsection with respect to any plan amend-  
33 ment, the provisions of the applicable pension plan shall be ap-  
34 plied as if such plan amendment entitled all applicable individ-  
35 uals to the greater of—



1           “(i) the benefits to which they would have been enti-  
2           tled without regard to such amendment, or

3           “(ii) the benefits under the plan with regard to such  
4           amendment.

5           “(B) For purposes of subparagraph (A), there is an egre-  
6           gious failure to meet the requirements of this subsection if such  
7           failure is within the control of the plan sponsor and is—

8           “(i) an intentional failure (including any failure to  
9           promptly provide the required notice or information after  
10          the plan administrator discovers an unintentional failure to  
11          meet the requirements of this subsection),

12          “(ii) a failure to provide most of the individuals with  
13          most of the information they are entitled to receive under  
14          this subsection, or

15          “(iii) a failure which is determined to be egregious  
16          under regulations prescribed by the Secretary of the Treas-  
17          ury.

18          “(7) The Secretary of the Treasury may by regulations  
19          allow any notice under this subsection to be provided by using  
20          new technologies.

21          “(8) For purposes of this subsection—

22                 “(A) The term ‘applicable individual’ means, with re-  
23                 spect to any plan amendment—

24                         “(i) each participant in the plan; and

25                         “(ii) any beneficiary who is an alternate payee  
26                         (within the meaning of section 206(d)(3)(K)) under an  
27                         applicable qualified domestic relations order (within the  
28                         meaning of section 206(d)(3)(B)(i)),

29                 whose rate of future benefit accrual under the plan may  
30                 reasonably be expected to be significantly reduced by such  
31                 plan amendment.

32                 “(B) The term ‘applicable pension plan’ means—

33                         “(i) any defined benefit plan; or

34                         “(ii) an individual account plan which is subject to  
35                         the funding standards of section 412 of the Internal  
36                         Revenue Code of 1986.



1 “(9) For purposes of this subsection, a plan amendment  
2 which eliminates or significantly reduces any early retirement  
3 benefit or retirement-type subsidy (within the meaning of sub-  
4 section (g)(2)(A)) shall be treated as having the effect of sig-  
5 nificantly reducing the rate of future benefit accrual.”.

6 (c) EFFECTIVE DATES.—

7 (1) IN GENERAL.—The amendments made by this sec-  
8 tion shall apply to plan amendments taking effect on or  
9 after the date of the enactment of this Act.

10 (2) TRANSITION.—Until such time as the Secretary of  
11 the Treasury issues regulations under sections 4980F(e)(2)  
12 and (3) of the Internal Revenue Code of 1986, and section  
13 204(h) of the Employee Retirement Income Security Act of  
14 1974, as added by the amendments made by this section,  
15 a plan shall be treated as meeting the requirements of such  
16 sections if it makes a good faith effort to comply with such  
17 requirements.

18 (3) SPECIAL NOTICE RULE.—

19 (A) IN GENERAL.—The period for providing any  
20 notice required by the amendments made by this sec-  
21 tion shall not end before the date which is 3 months  
22 after the date of the enactment of this Act.

23 (B) REASONABLE NOTICE.—The amendments  
24 made by this section shall not apply to any plan  
25 amendment taking effect on or after the date of the en-  
26 actment of this Act if, before April 25, 2001, notice  
27 was provided to participants and beneficiaries adversely  
28 affected by the plan amendment (or their representa-  
29 tives) which was reasonably expected to notify them of  
30 the nature and effective date of the plan amendment.

## 31 **Subtitle F—Reducing Regulatory** 32 **Burdens**

### 33 **SEC. 661. MODIFICATION OF TIMING OF PLAN VALU-** 34 **ATIONS.**

35 (a) IN GENERAL.—Paragraph (9) of section 412(c) (relat-  
36 ing to annual valuation) is amended to read as follows:

1 “(9) ANNUAL VALUATION.—

2 “(A) IN GENERAL.—For purposes of this section,  
3 a determination of experience gains and losses and a  
4 valuation of the plan’s liability shall be made not less  
5 frequently than once every year, except that such deter-  
6 mination shall be made more frequently to the extent  
7 required in particular cases under regulations pre-  
8 scribed by the Secretary.

9 “(B) VALUATION DATE.—

10 “(i) CURRENT YEAR.—Except as provided in  
11 clause (ii), the valuation referred to in subpara-  
12 graph (A) shall be made as of a date within the  
13 plan year to which the valuation refers or within  
14 one month prior to the beginning of such year.

15 “(ii) USE OF PRIOR YEAR VALUATION.—The  
16 valuation referred to in subparagraph (A) may be  
17 made as of a date within the plan year prior to the  
18 year to which the valuation refers if, as of such  
19 date, the value of the assets of the plan are not less  
20 than 125 percent of the plan’s current liability (as  
21 defined in paragraph (7)(B)).

22 “(iii) ADJUSTMENTS.—Information under  
23 clause (ii) shall, in accordance with regulations, be  
24 actuarially adjusted to reflect significant dif-  
25 ferences in participants.”.

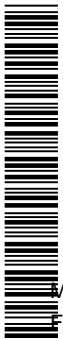
26 (b) AMENDMENT OF ERISA.—Paragraph (9) of section  
27 302(c) of the Employee Retirement Income Security Act of  
28 1974 (29 U.S.C. 1053(c)) is amended—

29 (1) by inserting “(A)” after “(9)”, and

30 (2) by adding at the end the following:

31 “(B)(i) Except as provided in clause (ii), the valuation re-  
32 ferred to in subparagraph (A) shall be made as of a date within  
33 the plan year to which the valuation refers or within one month  
34 prior to the beginning of such year.

35 “(ii) The valuation referred to in subparagraph (A) may  
36 be made as of a date within the plan year prior to the year



1 to which the valuation refers if, as of such date, the value of  
2 the assets of the plan are not less than 125 percent of the  
3 plan's current liability (as defined in paragraph (7)(B)).

4 “(iii) Information under clause (ii) shall, in accordance  
5 with regulations, be actuarially adjusted to reflect significant  
6 differences in participants.”.

7 (c) EFFECTIVE DATE.—The amendments made by this  
8 section shall apply to plan years beginning after December 31,  
9 2001.

10 **SEC. 662. ESOP DIVIDENDS MAY BE REINVESTED WITH-**  
11 **OUT LOSS OF DIVIDEND DEDUCTION.**

12 (a) IN GENERAL.—Section 404(k)(2)(A) (defining applica-  
13 ble dividends) is amended by striking “or” at the end of clause  
14 (ii), by redesignating clause (iii) as clause (iv), and by inserting  
15 after clause (ii) the following new clause:

16 “(iii) is, at the election of such participants or  
17 their beneficiaries—

18 “(I) payable as provided in clause (i) or  
19 (ii), or

20 “(II) paid to the plan and reinvested in  
21 qualifying employer securities, or”.

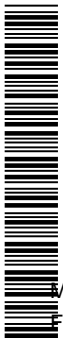
22 (b) STANDARDS FOR DISALLOWANCE.—Section  
23 404(k)(5)(A) (relating to disallowance of deduction) is amended  
24 by inserting “avoidance or” before “evasion”.

25 (c) EFFECTIVE DATE.—The amendments made by this  
26 section shall apply to taxable years beginning after December  
27 31, 2001.

28 **SEC. 663. REPEAL OF TRANSITION RULE RELATING TO**  
29 **CERTAIN HIGHLY COMPENSATED EMPLOY-**  
30 **EES.**

31 (a) IN GENERAL.—Paragraph (4) of section 1114(c) of  
32 the Tax Reform Act of 1986 is hereby repealed.

33 (b) EFFECTIVE DATE.—The repeal made by subsection  
34 (a) shall apply to plan years beginning after December 31,  
35 2001.



1   **SEC. 664. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

2       (a) IN GENERAL.—The Secretary of the Treasury shall  
3   modify Treasury Regulations section 1.410(b)–6(g) to provide  
4   that employees of an organization described in section  
5   403(b)(1)(A)(i) of the Internal Revenue Code of 1986 who are  
6   eligible to make contributions under section 403(b) of such  
7   Code pursuant to a salary reduction agreement may be treated  
8   as excludable with respect to a plan under section 401(k) or  
9   (m) of such Code that is provided under the same general ar-  
10   rangement as a plan under such section 401(k), if—

11       (1) no employee of an organization described in sec-  
12   tion 403(b)(1)(A)(i) of such Code is eligible to participate  
13   in such section 401(k) plan or section 401(m) plan; and

14       (2) 95 percent of the employees who are not employees  
15   of an organization described in section 403(b)(1)(A)(i) of  
16   such Code are eligible to participate in such plan under  
17   such section 401(k) or (m).

18       (b) EFFECTIVE DATE.—The modification required by sub-  
19   section (a) shall apply as of the same date set forth in section  
20   1426(b) of the Small Business Job Protection Act of 1996.

21   **SEC. 665. CLARIFICATION OF TREATMENT OF EM-**  
22   **PLOYER-PROVIDED RETIREMENT ADVICE.**

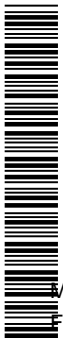
23       (a) IN GENERAL.—Subsection (a) of section 132 (relating  
24   to exclusion from gross income) is amended by striking “or”  
25   at the end of paragraph (5), by striking the period at the end  
26   of paragraph (6) and inserting “, or”, and by adding at the  
27   end the following new paragraph:

28       “(7) qualified retirement planning services.”.

29       (b) QUALIFIED RETIREMENT PLANNING SERVICES DE-  
30   FINED.—Section 132 is amended by redesignating subsection  
31   (m) as subsection (n) and by inserting after subsection (l) the  
32   following:

33       “(m) QUALIFIED RETIREMENT PLANNING SERVICES.—

34       “(1) IN GENERAL.—For purposes of this section, the  
35   term ‘qualified retirement planning services’ means any re-  
36   tirement planning advice or information provided to an em-





1 this section shall apply in determining the income tax treat-  
2 ment of the Settlement Trust and its beneficiaries with respect  
3 to the Settlement Trust.

4 “(b) TAXATION OF INCOME OF TRUST.—Except as pro-  
5 vided in subsection (f)(1)(B)(ii)—

6 “(1) IN GENERAL.—There is hereby imposed on the  
7 taxable income of an electing Settlement Trust, other than  
8 its net capital gain, a tax at the lowest rate specified in  
9 section 1(c).

10 “(2) CAPITAL GAIN.—In the case of an electing Settle-  
11 ment Trust with a net capital gain for the taxable year, a  
12 tax is hereby imposed on such gain at the rate of tax which  
13 would apply to such gain if the taxpayer were subject to  
14 a tax on its other taxable income at only the lowest rate  
15 specified in section 1(c).

16 Any such tax shall be in lieu of the income tax otherwise im-  
17 posed by this chapter on such income or gain.

18 “(c) ONE-TIME ELECTION.—

19 “(1) IN GENERAL.—A Settlement Trust may elect to  
20 have the provisions of this section apply to the trust and  
21 its beneficiaries.

22 “(2) TIME AND METHOD OF ELECTION.—An election  
23 under paragraph (1) shall be made by the trustee of such  
24 trust—

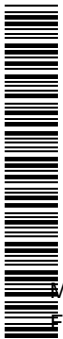
25 “(A) on or before the due date (including exten-  
26 sions) for filing the Settlement Trust’s return of tax for  
27 the first taxable year of such trust ending after the  
28 date of the enactment of this section, and

29 “(B) by attaching to such return of tax a state-  
30 ment specifically providing for such election.

31 “(3) PERIOD ELECTION IN EFFECT.—Except as pro-  
32 vided in subsection (f), an election under this subsection—

33 “(A) shall apply to the first taxable year described  
34 in paragraph (2)(A) and all subsequent taxable years,  
35 and

36 “(B) may not be revoked once it is made.





1 “(d) CONTRIBUTIONS TO TRUST.—

2 “(1) BENEFICIARIES OF ELECTING TRUST NOT TAXED  
3 ON CONTRIBUTIONS.—In the case of an electing Settlement  
4 Trust, no amount shall be includible in the gross income  
5 of a beneficiary of such trust by reason of a contribution  
6 to such trust.

7 “(2) EARNINGS AND PROFITS.—The earnings and  
8 profits of the sponsoring Native Corporation shall not be  
9 reduced on account of any contribution to such Settlement  
10 Trust.

11 “(e) TAX TREATMENT OF DISTRIBUTIONS TO BENE-  
12 FICIARIES.—Amounts distributed by an electing Settlement  
13 Trust during any taxable year shall be considered as having the  
14 following characteristics in the hands of the recipient bene-  
15 ficiary:

16 “(1) First, as amounts excludable from gross income  
17 for the taxable year to the extent of the taxable income of  
18 such trust for such taxable year (decreased by any income  
19 tax paid by the trust with respect to the income) plus any  
20 amount excluded from gross income of the trust under sec-  
21 tion 103.

22 “(2) Second, as amounts excludable from gross income  
23 to the extent of the amount described in paragraph (1) for  
24 all taxable years for which an election is in effect under  
25 subsection (e) with respect to the trust, and not previously  
26 taken into account under paragraph (1).

27 “(3) Third, as amounts distributed by the sponsoring  
28 Native Corporation with respect to its stock (within the  
29 meaning of section 301(a)) during such taxable year and  
30 taxable to the recipient beneficiary as amounts described in  
31 section 301(c)(1), to the extent of current or accumulated  
32 earnings and profits of the sponsoring Native Corporation  
33 as of the close of such taxable year after proper adjustment  
34 is made for all distributions made by the sponsoring Native  
35 Corporation during such taxable year.



1           “(4) Fourth, as amounts distributed by the trust in  
2           excess of the distributable net income of such trust for such  
3           taxable year.

4           Amounts distributed to which paragraph (3) applies shall not  
5           be treated as a corporate distribution subject to section 311(b),  
6           and for purposes of determining the amount of a distribution  
7           for purposes of paragraph (3) and the basis to the recipients,  
8           section 643(e) and not section 301 (b) or (d) shall apply.

9           “(f) SPECIAL RULES WHERE TRANSFER RESTRICTIONS  
10          MODIFIED.—

11           “(1) TRANSFER OF BENEFICIAL INTERESTS.—If, at  
12           any time, a beneficial interest in an electing Settlement  
13           Trust may be disposed of to a person in a manner which  
14           would not be permitted by section 7(h) of the Alaska Na-  
15           tive Claims Settlement Act (43 U.S.C. 1606(h)) if such in-  
16           terest were Settlement Common Stock—

17           “(A) no election may be made under subsection (c)  
18           with respect to such trust, and

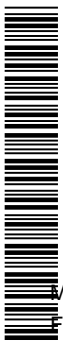
19           “(B) if such an election is in effect as of such  
20           time—

21           “(i) such election shall cease to apply as of the  
22           first day of the taxable year in which such disposi-  
23           tion is first permitted,

24           “(ii) the provisions of this section shall not  
25           apply to such trust for such taxable year and all  
26           taxable years thereafter, and

27           “(iii) the distributable net income of such  
28           trust shall be increased by the current or accumu-  
29           lated earnings and profits of the sponsoring Native  
30           Corporation as of the close of such taxable year  
31           after proper adjustment is made for all distribu-  
32           tions made by the sponsoring Native Corporation  
33           during such taxable year.

34           In no event shall the increase under clause (iii) exceed the  
35           fair market value of the trust’s assets as of the date the  
36           beneficial interest of the trust first becomes so disposable.



1 The earnings and profits of the sponsoring Native Corpora-  
2 tion shall be adjusted as of the last day of such taxable  
3 year by the amount of earnings and profits so included in  
4 the distributable net income of the trust.

5 “(2) STOCK IN CORPORATION.—If—

6 “(A) stock in the sponsoring Native Corporation  
7 may be disposed of to a person in a manner which  
8 would not be permitted by section 7(h) of the Alaska  
9 Native Claims Settlement Act (43 U.S.C. 1606(h)) if  
10 such stock were Settlement Common Stock, and

11 “(B) at any time after such disposition of stock is  
12 first permitted, such corporation transfers assets to a  
13 Settlement Trust,

14 paragraph (1)(B) shall be applied to such trust on and  
15 after the date of the transfer in the same manner as if the  
16 trust permitted dispositions of beneficial interests in the  
17 trust in a manner not permitted by such section 7(h).

18 “(3) CERTAIN DISTRIBUTIONS.—For purposes of this  
19 section, the surrender of an interest in a Native Corpora-  
20 tion or an electing Settlement Trust in order to accomplish  
21 the whole or partial redemption of the interest of a share-  
22 holder or beneficiary in such corporation or trust, or to ac-  
23 complish the whole or partial liquidation of such corpora-  
24 tion or trust, shall be deemed to be a transfer permitted  
25 by section 7(h) of the Alaska Native Claims Settlement  
26 Act.

27 “(g) TAXABLE INCOME.—For purposes of this title, the  
28 taxable income of an electing Settlement Trust shall be deter-  
29 mined under section 641(b) without regard to any deduction  
30 under section 651 or 661.

31 “(h) DEFINITIONS.—For purposes of this section—

32 “(1) ELECTING SETTLEMENT TRUST.—The term  
33 ‘electing Settlement Trust’ means a Settlement Trust  
34 which has made the election, effective for a taxable year,  
35 described in subsection (c).



1           “(2) NATIVE CORPORATION.—The term ‘Native Cor-  
2           poration’ has the meaning given such term by section 3(m)  
3           of the Alaska Native Claims Settlement Act (43 U.S.C.  
4           1602(m)).

5           “(3) SETTLEMENT COMMON STOCK.—The term ‘Set-  
6           tlement Common Stock’ has the meaning given such term  
7           by section 3(p) of the Alaska Native Claims Settlement Act  
8           (43 U.S.C. 1602(p)).

9           “(4) SETTLEMENT TRUST.—The term ‘Settlement  
10          Trust’ means a trust that constitutes a settlement trust  
11          under section 3(t) of the Alaska Native Claims Settlement  
12          Act (43 U.S.C. 1602(t)).

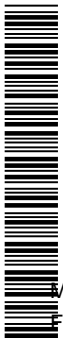
13          “(5) SPONSORING NATIVE CORPORATION.—The term  
14          ‘sponsoring Native Corporation’ means the Native Corpora-  
15          tion which transfers assets to an electing Settlement Trust.

16          “(i) SPECIAL LOSS DISALLOWANCE RULE.—Any loss that  
17          would otherwise be recognized by a shareholder upon a disposi-  
18          tion of a share of stock of a sponsoring Native Corporation  
19          shall be reduced (but not below zero) by the per share loss ad-  
20          justment factor. The per share loss adjustment factor shall be  
21          the aggregate of all contributions to all electing Settlement  
22          Trusts sponsored by such Native Corporation made on or after  
23          the first day each trust is treated as an electing Settlement  
24          Trust expressed on a per share basis and determined as of the  
25          day of each such contribution.

26          “(j) CROSS REFERENCE.—

**“For information required with respect to  
electing Settlement Trusts and sponsoring Na-  
tive Corporations, see section 6039H.”.**

27          (b) REPORTING.—Subpart A of part III of subchapter A  
28          of chapter 61 of subtitle F (relating to information concerning  
29          persons subject to special provisions) is amended by inserting  
30          after section 6039G the following new section:



1   **“SEC. 6039H. INFORMATION WITH RESPECT TO ALASKA**  
2                   **NATIVE SETTLEMENT TRUSTS AND SPON-**  
3                   **SORING NATIVE CORPORATIONS.**

4           “(a) REQUIREMENT.—The fiduciary of an electing Settle-  
5   ment Trust (as defined in section 646(h)(1)) shall include with  
6   the return of income of the trust a statement containing the  
7   information required under subsection (c).

8           “(b) APPLICATION WITH OTHER REQUIREMENTS.—The  
9   filing of any statement under this section shall be in lieu of the  
10   reporting requirements under section 6034A to furnish any  
11   statement to a beneficiary regarding amounts distributed to  
12   such beneficiary (and such other reporting rules as the Sec-  
13   retary deems appropriate).

14          “(c) REQUIRED INFORMATION.—The information required  
15   under this subsection shall include—

16           “(1) the amount of distributions made during the tax-  
17   able year to each beneficiary,

18           “(2) the treatment of such distribution under the ap-  
19   plicable provision of section 646, including the amount that  
20   is excludable from the recipient beneficiary’s gross income  
21   under section 646, and

22           “(3) the amount (if any) of any distribution during  
23   such year that is deemed to have been made by the spon-  
24   soring Native Corporation (as defined in section  
25   646(h)(5)).

26          “(d) SPONSORING NATIVE CORPORATION.—

27           “(1) IN GENERAL.—The electing Settlement Trust  
28   shall, on or before the date on which the statement under  
29   subsection (a) is required to be filed, furnish such state-  
30   ment to the sponsoring Native Corporation (as so defined).

31           “(2) DISTRIBUTEES.—The sponsoring Native Corpora-  
32   tion shall furnish each recipient of a distribution described  
33   in section 646(e)(3) a statement containing the amount  
34   deemed to have been distributed to such recipient by such  
35   corporation for the taxable year.”.

36          “(c) CLERICAL AMENDMENT.—

1 (1) The table of sections for subpart A of part I of  
2 subchapter J of chapter 1 of such Code is amended by add-  
3 ing at the end the following new item:

“Sec. 646. Tax treatment of electing Alaska Native Settle-  
ment Trusts.”.

4 (2) The table of sections for subpart A of part III of  
5 subchapter A of chapter 61 of subtitle F of such Code is  
6 amended by inserting after the item relating to section  
7 6039G the following new item:

“Sec. 6039H. Information with respect to Alaska Native Set-  
tlement Trusts and sponsoring Native Corpora-  
tions.”.

8 (d) EFFECTIVE DATE.—The amendments made by this  
9 section shall apply to taxable years ending after the date of the  
10 enactment of this Act and to contributions made to electing  
11 Settlement Trusts for such year or any subsequent year.

## 12 **TITLE VII—ALTERNATIVE** 13 **MINIMUM TAX**

### 14 **SEC. 701. INCREASE IN ALTERNATIVE MINIMUM TAX EX-** 15 **EMPTION.**

16 (a) IN GENERAL.—

17 (1) Subparagraph (A) of section 55(d)(1) (relating to  
18 exemption amount for taxpayers other than corporations) is  
19 amended by striking “\$45,000” and inserting “\$45,000  
20 (\$49,000 in the case of taxable years beginning in 2001,  
21 2002, 2003, and 2004)”.

22 (2) Subparagraph (B) of section 55(d)(1) (relating to  
23 exemption amount for taxpayers other than corporations) is  
24 amended by striking “\$33,750” and inserting “\$33,750  
25 (\$35,750 in the case of taxable years beginning in 2001,  
26 2002, 2003, and 2004)”.

27 (b) CONFORMING AMENDMENTS.—

28 (1) Paragraph (1) of section 55(d) is amended by  
29 striking “and” at the end of subparagraph (B), by striking  
30 subparagraph (C), and by inserting after subparagraph (B)  
31 the following new subparagraphs:

1 “(C) 50 percent of the dollar amount applicable  
2 under paragraph (1)(A) in the case of a married indi-  
3 vidual who files a separate return, and

4 “(D) \$22,500 in the case of an estate or trust.”.

5 (2) Subparagraph (C) of section 55(d)(3) is amended  
6 by striking “paragraph (1)(C)” and inserting “subpara-  
7 graph (C) or (D) of paragraph (1)”.

8 (3) The last sentence of section 55(d)(3) is amended—

9 (A) by striking “paragraph (1)(C)(i)” and insert-  
10 ing “paragraph (1)(C)”; and

11 (B) by striking “\$165,000 or (ii) \$22,500” and  
12 inserting “the minimum amount of such income (as so  
13 determined) for which the exemption amount under  
14 paragraph (1)(C) is zero, or (ii) such exemption  
15 amount (determined without regard to this para-  
16 graph)”.

17 (c) EFFECTIVE DATE.—The amendments made by this  
18 section shall apply to taxable years beginning after December  
19 31, 2000.

## 20 **TITLE VIII—OTHER PROVISIONS**

### 21 **SEC. 801. TIME FOR PAYMENT OF CORPORATE ESTI-** 22 **MATED TAXES.**

23 Notwithstanding section 6655 of the Internal Revenue  
24 Code of 1986—

25 (1) 100 percent of the amount of any required install-  
26 ment of corporate estimated tax which is otherwise due in  
27 September 2001 shall not be due until October 1, 2001;  
28 and

29 (2) 20 percent of the amount of any required install-  
30 ment of corporate estimated tax which is otherwise due in  
31 September 2004 shall not be due until October 1, 2004.

### 32 **SEC. 802. EXPANSION OF AUTHORITY TO POSTPONE** 33 **CERTAIN TAX-RELATED DEADLINES BY REA-** 34 **SON OF PRESIDENTIALLY DECLARED DIS-** 35 **ASTER.**

36 (a) IN GENERAL.—Section 7508A(a) (relating to authority  
37 to postpone certain tax-related deadlines by reason of presi-



1 dentially declared disaster) is amended by striking “90 days”  
2 and inserting “120 days”.

3 (b) EFFECTIVE DATE.—The amendment made by this sec-  
4 tion shall take effect on the date of enactment of this Act.

5 **SEC. 803. NO FEDERAL INCOME TAX ON RESTITUTION**  
6 **RECEIVED BY VICTIMS OF THE NAZI REGIME**  
7 **OR THEIR HEIRS OR ESTATES.**

8 (a) IN GENERAL.—For purposes of the Internal Revenue  
9 Code of 1986, any excludable restitution payments received by  
10 an eligible individual (or the individual’s heirs or estate) and  
11 any excludable interest—

12 (1) shall not be included in gross income; and

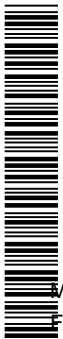
13 (2) shall not be taken into account for purposes of ap-  
14 plying any provision of such Code which takes into account  
15 excludable income in computing adjusted gross income, in-  
16 cluding section 86 of such Code (relating to taxation of So-  
17 cial Security benefits).

18 For purposes of such Code, the basis of any property received  
19 by an eligible individual (or the individual’s heirs or estate) as  
20 part of an excludable restitution payment shall be the fair mar-  
21 ket value of such property as of the time of the receipt.

22 (b) ELIGIBLE INDIVIDUAL.—For purposes of this section,  
23 the term “eligible individual” means a person who was per-  
24 secuted on the basis of race, religion, physical or mental dis-  
25 ability, or sexual orientation by Nazi Germany, any other Axis  
26 regime, or any other Nazi-controlled or Nazi-allied country.

27 (c) EXCLUDABLE RESTITUTION PAYMENT.—For purposes  
28 of this section, the term “excludable restitution payment”  
29 means any payment or distribution to an individual (or the in-  
30 dividual’s heirs or estate) which—

31 (1) is payable by reason of the individual’s status as  
32 an eligible individual, including any amount payable by any  
33 foreign country, the United States of America, or any other  
34 foreign or domestic entity, or a fund established by any  
35 such country or entity, any amount payable as a result of  
36 a final resolution of a legal action, and any amount payable





1 under a law providing for payments or restitution of prop-  
2 erty;

3 (2) constitutes the direct or indirect return of, or com-  
4 pensation or reparation for, assets stolen or hidden from,  
5 or otherwise lost to, the individual before, during, or imme-  
6 diately after World War II by reason of the individual's  
7 status as an eligible individual, including any proceeds of  
8 insurance under policies issued on eligible individuals by  
9 European insurance companies immediately before and  
10 during World War II; or

11 (3) consists of interest which is payable as part of any  
12 payment or distribution described in paragraph (1) or (2).

13 (d) EXCLUDABLE INTEREST.—For purposes of this sec-  
14 tion, the term “excludable interest” means any interest earned  
15 by—

16 (1) escrow accounts or settlement funds established  
17 pursuant to the settlement of the action entitled “In re:  
18 Holocaust Victim Assets Litigation,” (E.D.N.Y.) C.A. No.  
19 96–4849,

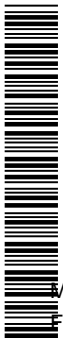
20 (2) funds to benefit eligible individuals or their heirs  
21 created by the International Commission on Holocaust In-  
22 surance Claims as a result of the Agreement between the  
23 Government of the United States of America and the Gov-  
24 ernment of the Federal Republic of Germany concerning  
25 the Foundation “Remembrance, Responsibility, and Fu-  
26 ture,” dated July 17, 2000, or

27 (3) similar funds subject to the administration of the  
28 United States courts created to provide excludable restitu-  
29 tion payments to eligible individuals (or eligible individuals'  
30 heirs or estates).

31 (e) EFFECTIVE DATE.—

32 (1) IN GENERAL.—This section shall apply to any  
33 amount received on or after January 1, 2000.

34 (2) NO INFERENCE.—Nothing in this Act shall be con-  
35 strued to create any inference with respect to the proper



1 tax treatment of any amount received before January 1,  
2 2000.

3 **TITLE IX—COMPLIANCE WITH**  
4 **CONGRESSIONAL BUDGET ACT**

5 **SEC. 901. SUNSET OF PROVISIONS OF ACT.**

6 (a) IN GENERAL.—All provisions of, and amendments  
7 made by, this Act shall not apply—

8 (1) to taxable, plan, or limitation years beginning after  
9 December 31, 2010, or

10 (2) in the case of title V, to estates of decedents dying,  
11 gifts made, or generation skipping transfers, after Decem-  
12 ber 31, 2010.

13 (b) APPLICATION OF CERTAIN LAWS.—The Internal Rev-  
14 enue Code of 1986 and the Employee Retirement Income Secu-  
15 rity Act of 1974 shall be applied and administered to years, es-  
16 tates, gifts, and transfers described in subsection (a) as if the  
17 provisions and amendments described in subsection (a) had  
18 never been enacted.

And the Senate agree to the same.

